

## MEMORANDUM

**TO:** Board of Trustees

**FROM:** Kendra Wong  
Chairwoman, Board of Trustees

**SUBJECT:** Discussion on Policy Direction to the IVGID Representative (Trustee Matthew Dent) to the Nevada League of Cities on Property Tax Reform and Sanctuary Cities

**DATE:** February 15, 2017

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### **I. RECOMMENDATION**

That the Board of Trustees provide policy direction to the Board of Trustees Representative on the Nevada League of Cities (NLC) regarding positions to be considered by the League during the current legislative session.

### **II. BACKGROUND**

Trustee Matthew Dent serves as the Board's representative to the Nevada League of Cities (NLC). Periodically, the NLC solicits input from its Board regarding issues and specific legislation of interest to its members. As a member of the Municipal Mayors and Chairs group, I am briefed on issues that will be considered by the NLC Board. Two issues are likely to come up for NLC Board consideration that I wanted to share with the Board of Trustees so that we can provide guidance for Trustee Dent when he is deliberating with the NLC Board.

The two issues are Property Tax Reform and Sanctuary Cities.

### **III. DISCUSSION ITEMS**

#### **Property Tax Reform**

Property Taxes are a key source of revenue for local government. They are a stable source of revenue and typically are the single largest source of revenue for cities and school districts.

In 2005, Assembly Bill 489 was passed to address a rapid increase in property tax value that was creating a burden for many homeowners who were experiencing big increases in the property taxes.

Within two years of its implementation, the great recession eliminated rising property values and eliminated the need for the property tax inflation protections put in place.

This legislation has greatly outlasted its original purpose and now creates a situation where property taxes cannot rise in a manner consistent with current service level demands. In Fiscal Year 2017, it reduced tax collections nearly \$700 million statewide with 40% of that loss to our school districts. Locally, over 20% of property tax revenues were abated.

What has created this huge abatement of taxes isn't the current cap on property values, which limits residential properties to a 3% annual increase and commercial properties to an 8% annual increase, rather it is a secondary calculation imposed by Assembly Bill 489 that significantly increases the amount abated each year. This secondary calculation capped the increase in property taxes for both types of properties to a maximum of 0.2% in Fiscal Year 2017. This is far less than is needed for governments to keep up with population growth and cost increases.

A consortium of over fifty (50) local governments has been reviewing alternatives to the current system. While the NLC is not endorsing any specific legislation at this time, the NLC will be asking its Board to support the following principles when reviewing potential legislation:

- 1) To fix the secondary calculation so that there is a 3% floor on collection increases unless Assessed Value is declining and the abated portions of ad valorem revenue has been used up; and
- 2) An interim commission to review the property tax structure in Nevada.

I've attached additional information regarding this issue to the staff report. If you would like additional information, the District General Manager can provide you with additional more detailed documentation upon request.

### **Sanctuary Cities**

On January 25, 2017, the President of the United States issued an Executive Order entitled "Enhancing Public Safety in the Interior of the United States". Section 2 (c) of this Executive Order states that "jurisdictions that fail to comply with applicable Federal law do not receive Federal Funds, except as mandated by law." Section 9 of this Executive Order specifically outlines the withholding of funds from what it terms "Sanctuary Jurisdictions."

Although there is no statutory or legal definition of a "sanctuary jurisdiction" or "sanctuary city," under the Executive Order, they are defined as ones who are not in compliance with a Federal law that prohibits or restricts cities from prohibiting local agencies from cooperating with Federal agencies to identify a person's immigration status. The U.S. Attorney General and the Secretary of the Department of Homeland Security will decide who is and who is not a "sanctuary jurisdiction."

Since IVGID does not have jurisdiction over law enforcement, it is unlikely that we would be impacted by the Executive Order. However, I thought it was important for the IVGID Board of Trustees to be aware of the ongoing issues related to the Executive Order's implementation. The NLC is monitoring the situation and there is potential legislation to make Nevada a "Sanctuary State." It isn't clear what implications that would have for local agencies that are operating consistent with the Executive Order. The NLC Board is not expected to take a position on this matter. The Executive Order is attached to this report for your review.

**Local Government Fiscal Working Group**  
**Property Tax Talking Points**

- Property taxes are an important source of revenue for state and local governments. In fact, property taxes account for about 34.5% of general revenue for Nevada's local governments, most notably, school districts. (Source: U.S. Census Bureau, 2014 Annual Surveys of State and Local Government Finances, released 2016)
- Property taxes have historically been among the state's most stable sources of revenue. This, however, began to change with the passage of Assembly Bill 489 (AB489) in 2005, which created partial abatements of property tax bills. AB489 specifically stated, "A new property tax system must be considered which will allow relief to the residents whose property tax values have increased to such an extent as to jeopardize their ability to continue to live in their homes..." (see, AB489 Section 1 (9)) However, AB489 was intended to be a short-term measure, noting, "The provisions of this act are necessary to ensure that the property owners of this State are protected from severely spiking property tax bills that will otherwise threaten their ability to continue living in their homes during the next 2 years while the Legislature studies our current property tax statutes to determine the appropriate remedy to the current property tax crisis." (see, AB489 Section 1 (11))
- AB489 has been in effect for 12 years, outlasting its intended purpose and creating an unintended, longer-term disconnect between growth in the economy and growth in property tax revenues. In fact, statewide property taxes are just now approaching 2007 levels, while the state's population, employment, personal incomes and business output are at record levels. (Sources: Nevada Department of Taxation; Nevada State Demographer's Office; Nevada Department of Employment, Training and Rehabilitation; U.S. Census Bureau; and the U.S. Bureau of Economic Analysis)
- The partial property tax abatements created by AB489 were intended to protect taxpayers from spiking property tax bills and not to negatively impact state and local governments' ability to provide public services. Section 1 of AB489 made this point clear, recognizing that "State and local governments provide critical services to the residents of the State and must be assured of sufficient revenue to fund such services, including, without limitation, police and fire protection, welfare services, and educational services and facilities." (see, AB489 Section 1 (7))
- In FY2017, about \$700 million in property taxes were abated throughout Nevada. Roughly 40% of these abated tax payments would have otherwise been distributed to school districts throughout the state. This is the single largest tax abatement in Nevada's modern history. (Source: Nevada Department of Taxation, *Property Tax Redbook*)
- Complicating the property tax abatement issue are a set of "secondary calculations" that significantly increase the amount of property taxes abated each year when certain economic or fiscal conditions exist. While most taxpayers understand that owner-occupied residential property tax increases are capped at 3% and all other property types are capped at 8%, they generally don't understand that these rates can be, and often are, reduced by this secondary calculation. During FY2017, property tax increases were not capped at 3% and 8%, but rather, 0.2% for both property types. As a result, between FY2016 and FY2017, the amount of property taxes collected statewide increased by about 2% while the amount of property tax abated increased by 27%. (Source: Nevada Department of Taxation, *Property Tax Redbook*)
- The Local Government Fiscal Working Group, a consortium representing more than 50 local governments, has been studying the property tax issue for the past two years. They have considered dozens of alternatives that would slow the rate of growth in the property tax abatement. The culmination of that work is AB43, which establishes a floor of 3% percent on the rate at which property taxes can increase for properties receiving, or potentially receiving, a property tax abatement.
- Importantly, AB43 does not increase the property tax rate. AB43 does not eliminate 3% and 8% percent partial abatement caps created by AB489. AB43 is not retroactive, and does not affect any factor or calculation used to determine the taxable value of property. AB43 does not affect the extent to which property taxes can decline because of a decrease in taxable value from one tax year to the next. AB43 does not change the allocation or distribution of property tax revenues among state or local governments. AB43 does not create a windfall for the state or local governments; rather, it is designed to slow the rate at which the property tax abatement is expected to increase over time.
- What AB43 does do is reduce the implications of an obscure secondary calculation embedded in AB489 that was intended to protect taxpayers from spiking property taxes, but today, severely limits the rate at which property taxes can recover. The result is a growing negative fiscal impact on the state, local governments, school districts, police departments and public service providers.

1864

The basis for the taxation of property in Nevada is established by the second Constitutional Convention of Nevada and ratified by the people of the territory as Article 10. Consisting of one paragraph, it gave the Legislature the authority to provide " ... for a uniform and equal rate of assessment and taxation ... secure a just valuation for the taxation of all property ... excepting mines and mining claims, the proceeds alone which shall be taxed and also excepting such property as may be exempted by law for municipal, education, literary, scientific, religious or charitable purposes".

1906

Voters approve Constitutional change to provide for assessment of patented mines.

1913

The Nevada Tax Commission is created in an effort to correct inconsistencies and inequities in the assessment of property between counties.

1917

The Legislature provides for the central assessment of "any property of an interstate or intercounty nature". State and County Boards of Equalization are created.

1962

Voters approve privilege tax in place of personal property tax on motor vehicles.

1967

The level of assessment on full cash value is set in statute at 35%.

1968

Voters approve "Freeport" exemption of personal property in transit.

1976

Voters approve exemption of personal property tax on inventory and allow the Legislature to exempt other categories of personal property.

1977

Household furnishings and livestock are exempted from personal property taxation.

1979

A statutory cap on the property tax rate is set at \$3.64 per \$100 of assessed value. State property tax levy eliminated.

1981

Year of the "Tax Shift". Primary revenue source of local governments shifted from property tax to sales tax. Property tax revenue to local governments capped at 4.5% increase annually. Buildings are depreciated at the rate of 2%. Value no longer based on market.

1983

State levies property tax rate of 5¢ per \$100 of assessed value for debt service. Property tax for schools operating increases 25¢ to 75¢. Depreciation of buildings reduced to 1.5%.

1985

Cap on local government real property tax revenue increases to 6%.

1989

Voters approve changes in net proceeds of mines tax to allow maximum \$5.00 tax rate.

1991

"Fair Share" bill enacted to correct inequities in 1981 "Tax Shift" plan.

1995

Legislature exempts consumable supplies from personal property. Tax rate cap of \$3.64 per \$100 of assessed value can be raised up to \$4.50 for "severe financial emergency" of a local government, including a school district, (NRS 354.750) if authorized by the Tax Commission. Duration of increase cannot exceed five (5) years.

1997

Exemption made for personal property for which cost of collection would be more than annual taxes, the actual amount to be determined by Tax Commission annually; other exemptions modified.

1999

Local governments with a population of under 25,000 and at the property tax rate cap can ask voters for a property tax rate increase of up to 40¢ per \$100 assessed value not to exceed 5 years.

The inclusion of intangible personal property as part of the valuation of centrally assessed properties is phased out.

Non-profit apprenticeship programs and golf courses included in a public park are exempted from property taxes.

2025

1850

2001

Business personal property taxes on the unsecured roll may be paid quarterly if in excess of \$10,000 and certain conditions are met; veterans exemptions are increased annually by the CPI. The property tax assistance program for seniors is transferred from the Department of Taxation to the Department of Human Resources.

2003

The legislature adds 1 ¢ (voter approved) to the property tax rate for open space, parks, etc. Another 1 ¢ is added for the State debt rate. Both are outside the \$3.64 cap. Surviving spouse and blind exemptions are indexed by CPI to match veterans exemption. Payment of property tax may be postponed for extreme economic hardship; counties of less than 10,000 population must receive property taxes due on any new power plant built within the county; income and property value limits are increased for senior citizen property tax rebate program.

2005

Property tax abatement program is established. Owner-occupied single family homes and residential rental property with rents at or below HUD fair market rents are capped at a maximum of 3% over the amount of the previous year's tax bill. All other property is capped at the current year plus 9 prior years of CPI or 8%, whichever is greater, over the amount of the previous year's tax bill. The caps do not apply to new construction for the first year.

The property value limits are increased for the senior citizen property tax rebate program. Golf courses are designated as "open space" use with land values capped at \$2,860 per acre adjusted annually for inflation.

2009

The appeal process for the partial abatement of property tax bills is extended to June 30. The federal government is added to the exemption for land held for purposes of education, environmental protection or conservation.

Property tax revenue received from the capital projects tax levied in Clark and Washoe counties and \$48.2 million in property tax revenue from all counties is redistributed to the state general fund over the biennium.

2007

Common-interest community property assessment procedures are changed. The partial abatements (tax caps) for non-owner occupied properties and non HUD rental units is limited to ensure the abatement is not less than 0% nor more than 8%. The \$5,000 limit on exemptions of personal property taxes for lodges and charitable organizations is repealed; and an exemption is added for land owned by the Archaeological Conservancy.

2011

A partial property tax abatement is provided to new manufacturing business that remodels or builds a facility to LEED standards and meets specified criteria. A person who applies for a veteran, surviving spouses or blind exemption must have actually resided in the state for 6 months. Provides that under certain circumstances the taxable value of units in a common-interest community is allocated in accordance with the formula in the declaration. Reduces to a value of \$5,000 or more the amount of taxes owed on personal property that may be paid in installments.

2013

Revises many provisions to determine the eligibility for partial abatements for new and expanded businesses. Provides a partial tax abatement of business personal property to businesses that make an investment in the Nevada System of Higher Education. The amount of investment, the purposes of the investment and the conditions to be met by the business to receive the partial abatement are specified.

2015

All school districts except Clark County may, under certain conditions have county commissioner place a bond question on the ballot for the purpose of building school facilities. Voter can be asked to approve any one or all of the following revenue sources: property tax, sales tax, governmental services tax, real property transfer tax or any combination of those taxes. Also school districts where voters have previously approved a "bond rollover" may extend the rollover without voter approval for an additional 10 years even if the rollover has expired. Certain conditions must be met.

A constitutional amendment is requested (SJR 13) to change the valuation of property from "taxable value" to "cash value" (market value). This measure must be approved again by the 2017 legislature before it can be placed on the 2018 general election ballot.

The Office of Economic Development may grant partial abatements of taxes on personal property for (1) a new or expanded data center and one or more collocated businesses and (2) businesses that own, operate, manufacture, service, maintain, test, repair, overhaul or assemble aircraft or aircraft components that meet specific conditions.

Source: Applied Analysis based on data reported by the Nevada Taxpayers Association.

APPLIED ANALYSIS

# Executive Order: Enhancing Public Safety in the Interior of the United States

EXECUTIVE ORDER

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## ENHANCING PUBLIC SAFETY IN THE INTERIOR OF THE UNITED STATES

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq.), and in order to ensure the public safety of the American people in communities across the United States as well as to ensure that our Nation's immigration laws are faithfully executed, I hereby declare the policy of the executive branch to be, and order, as follows:

Section 1. Purpose. Interior enforcement of our Nation's immigration laws is critically important to the national security and public safety of the United States. Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety. This is particularly so for aliens who engage in criminal conduct in the United States.

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Tens of thousands of removable aliens have been released into communities across the country, solely because their home countries refuse to accept their repatriation. Many of these aliens are criminals who have served time in our Federal, State, and local jails. The presence of such individuals in the United States, and the practices of foreign nations that refuse the repatriation of their nationals, are contrary to the national interest.

Although Federal immigration law provides a framework for Federal-State partnerships in enforcing our immigration laws to ensure the removal of aliens who have no right to be in the United States, the Federal Government has failed to discharge this basic sovereign responsibility. We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct executive departments and agencies (agencies) to employ all lawful means to enforce the immigration laws of the United States.

Sec. 2. Policy. It is the policy of the executive branch to:

(a) Ensure the faithful execution of the immigration laws of the United States, including the INA, against all removable aliens, consistent with Article II, Section 3 of the United States Constitution and section 3331 of title 5, United States Code;

(b) Make use of all available systems and resources to ensure the efficient and faithful execution of the immigration laws of the United States;

(c) Ensure that jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law;

(d) Ensure that aliens ordered removed from the United States are promptly removed; and

(e) Support victims, and the families of victims, of crimes committed by removable aliens.

Sec. 3. Definitions. The terms of this order, where applicable, shall have the meaning provided by section 1101 of title 8, United States Code.

Sec. 4. Enforcement of the Immigration Laws in the Interior of the United States. In furtherance of the policy described in section 2 of this order, I hereby direct agencies to employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all removable aliens.

Sec. 5. Enforcement Priorities. In executing faithfully the immigration laws of the United States, the Secretary of Homeland Security (Secretary) shall prioritize for removal those aliens described by the Congress in sections 212(a)(2), (a)(3), and (a)(6)(C), 235, and 237(a)(2) and (4) of the INA (8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225, and 1227(a)(2) and (4)), as well as removable aliens who:

(a) Have been convicted of any criminal offense;

(b) Have been charged with any criminal offense, where such charge has not been resolved;

(c) Have committed acts that constitute a chargeable criminal offense;

(d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;

(e) Have abused any program related to receipt of public benefits;

(f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or

(g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Sec. 6. Civil Fines and Penalties. As soon as practicable, and by no later than one year after the date of this order, the Secretary shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties that the Secretary is authorized under the law to assess and collect from aliens unlawfully present in the United States and from those who facilitate their presence in the United States.

Sec. 7. Additional Enforcement and Removal Officers. The Secretary, through the Director of U.S. Immigration and Customs Enforcement, shall, to the extent permitted by law and subject to the availability of appropriations, take all appropriate action to hire 10,000 additional immigration officers, who shall complete relevant training and be authorized to perform the law enforcement functions described in section 287 of the INA (8 U.S.C. 1357).

Sec. 8. Federal-State Agreements. It is the policy of the executive branch to empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law.

(a) In furtherance of this policy, the Secretary shall immediately take appropriate action to engage with the Governors of the States, as well as local officials, for the purpose of preparing to enter into agreements under section 287(g) of the INA (8 U.S.C. 1357(g)).

(b) To the extent permitted by law and with the consent of State or local officials, as appropriate, the Secretary shall take appropriate action, through agreements under section 287(g) of the INA, or otherwise, to authorize State and local law enforcement officials, as the Secretary determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.

(c) To the extent permitted by law, the Secretary may structure each agreement under section 287(g) of the INA in a manner that provides the most effective model for enforcing Federal immigration laws for that jurisdiction.

Sec. 9. Sanctuary Jurisdictions. It is the policy of the executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a State, shall comply with 8 U.S.C. 1373.

(a) In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.



(b) To better inform the public regarding the public safety threats associated with sanctuary jurisdictions, the Secretary shall utilize the Declined Detainer Outcome Report or its equivalent and, on a weekly basis, make public a comprehensive list of criminal actions committed by aliens and any jurisdiction that ignored or otherwise failed to honor any detainers with respect to such aliens.

(c) The Director of the Office of Management and Budget is directed to obtain and provide relevant and responsive information on all Federal grant money that currently is received by any sanctuary jurisdiction.

Sec. 10. Review of Previous Immigration Actions and Policies. (a) The Secretary shall immediately take all appropriate action to terminate the Priority Enforcement Program (PEP) described in the memorandum issued by the Secretary on November 20, 2014, and to reinstitute the immigration program known as "Secure Communities" referenced in that memorandum.

(b) The Secretary shall review agency regulations, policies, and procedures for consistency with this order and, if required, publish for notice and comment proposed regulations rescinding or revising any regulations inconsistent with this order and shall consider whether to withdraw or modify any inconsistent policies and procedures, as appropriate and consistent with the law.

(c) To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Secretary shall consolidate and revise any applicable forms to more effectively communicate with recipient law enforcement agencies.

Sec. 11. Department of Justice Prosecutions of Immigration Violators. The Attorney General and the Secretary shall work together to develop and implement a program that ensures that adequate resources are devoted to the prosecution of criminal immigration offenses in the United States, and to develop cooperative strategies to reduce violent crime and the reach of transnational criminal organizations into the United States.

Sec. 12. Recalcitrant Countries. The Secretary of Homeland Security and the Secretary of State shall cooperate to effectively implement the sanctions provided by section 243(d) of the INA (8 U.S.C. 1253(d)), as appropriate. The Secretary of State shall, to the maximum extent permitted by law, ensure that diplomatic efforts and negotiations with foreign states include as a condition precedent the acceptance by those foreign states of their nationals who are subject to removal from the United States.

Sec. 13. Office for Victims of Crimes Committed by Removable Aliens. The Secretary shall direct the Director of U.S. Immigration and Customs Enforcement to take all appropriate and lawful action to establish within U.S. Immigration and Customs Enforcement an office to provide proactive, timely, adequate, and professional services to victims of crimes committed by removable aliens and the family members of such victims. This office shall provide quarterly reports studying the effects of the victimization by criminal aliens present in the United States.

Sec. 14. Privacy Act. Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are not United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information.

Sec. 15. Reporting. Except as otherwise provided in this order, the Secretary and the Attorney General shall each submit to the President a report on the progress of the directives contained in this order within 90 days of the date of this order and again within 180 days of the date of this order.

Sec. 16. Transparency. To promote the transparency and situational awareness of criminal aliens in the United States, the Secretary and the Attorney General are hereby directed to collect relevant data and provide quarterly reports on the following:

(a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons;

(b) the immigration status of all aliens incarcerated as Federal pretrial detainees under the supervision of the United States Marshals Service; and

(c) the immigration status of all convicted aliens incarcerated in State prisons and local detention centers throughout the United States.

Sec. 17. Personnel Actions. The Office of Personnel Management shall take appropriate and lawful action to facilitate hiring personnel to implement this order.

Sec. 18. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,  
January 25, 2017.