

RESOLUTION NO._____

A RESOLUTION FOR THE REALLOCATION OF THE REVENUE FROM THE 1 CENT TAX ON FUEL FOR JET OR TURBINE POWERED AIRCRAFT TO THE CLARK COUNTY DEPARTMENT OF AVIATION.

WHEREAS, Clark County Department of Aviation County owns and operates a system of public use airports and has accepted federal Airport Improvement Program (AIP) grants; and

WHEREAS, pursuant to 49 U.S.C. § 47107, upon entering into an AIP grant agreement, an airport sponsor provides a series of assurances (Grant Assurances), including the specific assurance that local taxes on aviation fuel (except grandfathered taxes, i.e., taxes levied and allocated on or before December 30, 1987) and the revenues generated by a public airport will be expended only for the capital or operating costs of: (1) the airport; (2) the local airport system; or (3) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property; and

WHEREAS, the County is also subject to the separate federal requirement at 49 U.S.C. 47133, that local taxes on aviation fuel (except taxes levied and allocated on or before December 30, 1987) may not be expended for any purposes other than a lawful aviation purpose; and

WHEREAS, in October 2020, the Federal Aviation Administration (FAA) issued correspondence that provided a legal analysis that contradicted the existing legal justifications for grandfathering the imposition and use of the 1 cent tax by the Regional Transportation Commission; and

WHEREAS, on January 1, 2021, the Associate Administrator of the FAA further issued an opinion in FAA Docket 16-14-13 (United Airlines v. The Port Authority of New York and New Jersey), clarifying the agency's conclusion that the statutory grandfather exception applies only when the particular diversion at issue is one that is "required" by the law controlling the financing at issue; and

WHEREAS, both Nevada Revised Statutes Section 365.545 and Clark County Code Section 4.24.010, authorize, but do not require, the allocation of the 1 cent tax to the Regional Transportation Commission;

NOW, THEREFORE, be it resolved by the Board of County Commissioners:

THAT, the revenue from the 1 cent tax on fuel for jet or turbine powered aircraft imposed pursuant to Nevada Revised Statutes § 365.170 is airport revenue, the use of which is limited to capital or operating costs for the airport pursuant to federal law and the FAA Revenue Use Policy.

THAT, the revenue generated from the 1 cent tax may only be expended on permissible airport uses.

THAT, pursuant to federal statutes and agency guidance governing airport revenue use, the allocation of the revenue from the 1 cent tax to the Regional Transportation Commission is not permissible under federal law, and shall be reallocated to the Clark County Department of Aviation, effective July 1, 2021.

PASSED, ADOPTED, AND APPROVED this _____ day of _____ 2021.

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

ATTEST: _____
LYNN MARIE GOYA
Clark County Clerk

BY: _____
MARILYN KIRKPATRICK, Chair
Board of County Commissioners