

# CLARK COUNTY BOARD OF COMMISSIONERS

## AGENDA ITEM

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**Petitioner:** Rosemary A. Vassiliadis, Director of Aviation

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**Recommendation:**

**Approve, adopt, and authorize the Chair to sign a resolution reallocating the revenue from the 1 cent tax on fuel from jet or turbine-powered aircraft from the Regional Transportation Commission of Clark County to the Clark County Department of Aviation and designating the revenue from the 1 cent tax as only permissible for airport purposes; and providing for other matters properly related thereto. (For possible action)**

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**FISCAL IMPACT:**

Fund #:	5240.800	Fund Name:	Jet A Fuel Tax Revenues
Fund Center:	2200400070	Funded PGM/Grant:	N/A
Amount:	Approximately \$3.5 Million (annually)		
Description:	N/A		
Additional Comments:	N/A		

**BACKGROUND:**

The Clark County Department of Aviation (DOA) is subject to the provisions of 49 U.S.C. 47133, which requires that local taxes on aviation fuel (except taxes levied and allocated on or before December 30, 1987) be expended for lawful aviation purposes. Pursuant to federal statutes and agency guidance governing airport revenue use, the allocation of the revenue from the 1 cent tax on fuel from jet and turbine-powered aircraft to the Regional Transportation Commission of Clark County (RTC) is impermissible under federal law.

In 2003, the Nevada State Legislature adopted amendments to Nevada Revised Statutes (NRS) Section 365.545 and Clark County adopted Clark County Code Section 4.24.010, which enabled this jet fuel revenue to be allocated to the RTC. NRS 365.545 and Clark County Code Section 4.24.010, authorize, but do not require, the allocation of the 1 cent tax to the RTC.

In October of 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 RTC. Further, on January 1, 2021, the Associate Administrator of the FAA issued an opinion in FAA Docket 16-14-13 (United Airlines v. The Port Authority of New York and New Jersey), confirming 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.

Accordingly, the revenue from the 1 cent tax on fuel for jet or turbine powered aircraft shall be allocated for airport capital and/or operating costs, as required under federal law.

Cleared for Agenda

**06/15/2021**

File ID#

**21-853**