

SENATE BILL NO. 287—SENATOR PORTER

MARCH 1, 1999

Referred to Committee on Taxation

SUMMARY—Revises procedures for imposition of tax on fuel for jet or turbine-powered aircraft.
(BDR 32-1106)

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

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to taxes on fuels; revising procedures pursuant to which a board of county commissioners may impose a tax on fuel for jet or turbine-powered aircraft; and providing other matters properly relating thereto.

- 1 WHEREAS, It is vitally important to the economy of a county and to the
- 2 general welfare of the inhabitants of the county that the board of county
- 3 commissioners have the ability and discretion to impose a tax or tax
- 4 increase upon certain products, such as jet fuel, which are sold within the
- 5 borders of the county; and
- 6 WHEREAS, The imposition of a tax or tax increase upon jet fuel by a
- 7 board of county commissioners has ramifications beyond the borders of the
- 8 county because such an increase may cause an increase in airfare prices that
- 9 results in a decrease in the accessibility of affordable air service for
- 10 residents of the State of Nevada and tourists and other visitors from outside
- 11 the state; and
- 12 WHEREAS, The accessibility of affordable air service in the State of
- 13 Nevada is crucial to the vitality of tourism, one of the primary industries in
- 14 this state, and hence is crucial to the economy of the State of Nevada and
- 15 the general welfare of the inhabitants of this state; and
- 16 WHEREAS, A fine line separates a reasonable tax imposed upon jet fuel
- 17 to maintain or increase the general welfare of the inhabitants of a county
- 18 from an unduly burdensome tax imposed upon jet fuel that adversely affects
- 19 the tourism industry in Nevada and decreases the economy of this state and
- 20 the general welfare of its inhabitants; and

1 WHEREAS, A board of county commissioners is in the best position to
2 determine the county's need for revenue and whether such revenue should
3 come from a tax or tax increase upon jet fuel, and when making such a
4 determination should consider whether imposing a tax or tax increase upon
5 jet fuel crosses the line from reasonable and appropriate tax to unduly
6 burdensome tax; and

7 WHEREAS, It is the intent of the legislature by adopting this act to
8 increase the amount of discretion a board of county commissioners has to
9 impose a tax or tax increase upon jet fuel but it is not the intent of the
10 legislature to authorize a county to impose unduly burdensome taxes which
11 have a detrimental effect upon the tourism industry in the State of Nevada;
12 and

13 WHEREAS, The legislature trusts that a board of county commissioners
14 will consider the effects of a tax or tax increase upon jet fuel on the price of
15 air travel and the tourism industry in this state and will consult with the
16 airline industry when considering the imposition or increase of such a tax
17 before it exercises the discretion granted in this act; now, therefore,
18

19 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
20 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
21

22 **Section 1.** NRS 365.203 is hereby amended to read as follows:

23 365.203 1. A board of county commissioners may by ordinance, but
24 not as in a case of emergency, impose a tax of not more than:

25 (a) Four cents per gallon on fuel for jet or turbine-powered aircraft sold,
26 distributed or used in the county ; ~~I, after receiving the approval of a~~
27 ~~majority of the registered voters of the county voting on the question at a~~
28 ~~primary, general or special election;~~ and

29 (b) Eight cents per gallon on aviation fuel.

30 ~~{A county may combine this question with questions submitted pursuant to~~
31 ~~NRS 244.3351, 278.710, 371.045 or 377A.020, or any combination~~
32 ~~thereof.~~

33 ~~—2.— A special election may be held only if the board of county~~
34 ~~commissioners determines, by a unanimous vote, that an emergency exists.~~
35 ~~The determination made by the board is conclusive unless it is shown that~~
36 ~~the board acted with fraud or a gross abuse of discretion. An action to~~
37 ~~challenge the determination made by the board must be commenced within~~
38 ~~15 days after the board's determination is final. As used in this subsection,~~
39 ~~“emergency” means any unexpected occurrence or combination of~~

~~occurrences which requires immediate action by the board of county commissioners to prevent or mitigate a substantial financial loss to the county or to enable the board to provide an essential service to the residents of the county.~~

~~—3.]~~ 2. A tax imposed pursuant to this section must be imposed on all taxpayers at the same rate. The county shall not allow any discounts, exemptions or other variance of the rate of the tax for any taxpayer except for the state or a political subdivision of the state.

~~[4.]~~ 3. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

Sec. 2. NRS 371.045 is hereby amended to read as follows:

371.045 1. A board of county commissioners may by ordinance, but not as in a case of emergency, after receiving the approval of a majority of the registered voters voting on the question at a primary, general or special election, impose a supplemental privilege tax of not more than 1 cent on each \$1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the motor vehicle privilege tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. A county may combine this question with questions submitted pursuant to NRS 244.3351, 278.710 ~~[-365.203]~~ or 377A.020, or any combination thereof.

3. A special election may be held only if the board of county commissioners determines, by a unanimous vote, that an emergency exists. The determination made by the board is conclusive unless it is shown that the board acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the board must be commenced within 15 days after the board's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the board of county commissioners to prevent or mitigate a substantial financial loss to the county or to enable the board to provide an essential service to the residents of the county.

4. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

5. Except as otherwise provided in subsection 6 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

1 (a) Projects related to the construction and maintenance of sidewalks,
2 streets, avenues, boulevards, highways and other public rights of way used
3 primarily for vehicular traffic, including, without limitation, overpass
4 projects, street projects or underpass projects, as defined in NRS
5 244A.037, 244A.053 and 244A.055, within the boundaries of the county or
6 within 1 mile outside those boundaries if the board of county
7 commissioners finds that such projects outside the boundaries of the county
8 will facilitate transportation within the county;

9 (b) Payment of principal and interest on notes, bonds or other
10 obligations incurred to fund projects described in paragraph (a); or

11 (c) Any combination of those uses.

12 6. The county may expend the proceeds of the supplemental privilege
13 tax authorized by this section and NRS 371.047, or any borrowing in
14 anticipation of that tax, pursuant to an interlocal agreement between the
15 county and the regional transportation commission of the county with
16 respect to the projects to be financed with the proceeds of the tax.

17 7. As used in this section, "based" has the meaning ascribed to it in
18 NRS 482.011.

19 **Sec. 3.** NRS 377A.020 is hereby amended to read as follows:

20 377A.020 1. The board of county commissioners of any county may
21 enact an ordinance imposing a tax for a public transit system or for the
22 construction, maintenance and repair of public roads, or both, pursuant to
23 NRS 377A.030. The board of county commissioners of any county whose
24 population is less than 400,000 may enact an ordinance imposing a tax to
25 promote tourism pursuant to NRS 377A.030.

26 2. An ordinance enacted pursuant to this chapter may not become
27 effective before a question concerning the imposition of the tax is approved
28 by a majority of the registered voters of the county voting upon the
29 question which the board may submit to the voters at any general election.
30 A county may combine the questions for a public transit system and for the
31 construction, maintenance and repair of public roads with questions
32 submitted pursuant to NRS 244.3351, 278.710 ~~365.203~~ or 371.045, or
33 any combination thereof. The board shall also submit to the voters at a
34 general election any proposal to increase the rate of the tax or change the
35 previously approved uses for the proceeds of the tax.

36 3. Any ordinance enacted pursuant to this section must specify the date
37 on which the tax must first be imposed or on which an increase in the rate
38 of the tax becomes effective, which must not be earlier than the first day of
39 the second calendar month following the approval of the question by the
40 voters.

41 **Sec. 4.** NRS 244.3351 is hereby amended to read as follows:

42 244.3351 1. Except as otherwise provided in subsection 2 of NRS
43 244.3359, in addition to all other taxes imposed on the revenue from the

1 rental of transient lodging, a board of county commissioners may by
2 ordinance, but not as in a case of emergency, impose a tax at the rate of 1
3 percent of the gross receipts from the rental of transient lodging pursuant to
4 either paragraph (a) or (b) as follows:

5 (a) After receiving the approval of a majority of the registered voters of
6 the county voting on the question at a special, primary or general election,
7 the board of county commissioners may impose the tax throughout the
8 county, including its incorporated cities, upon all persons in the business of
9 providing lodging. The question may be combined with a question
10 submitted pursuant to NRS 278.710, ~~365.203,~~ 371.045 or 377A.020, or
11 any combination thereof.

12 (b) After receiving the approval of a majority of the registered voters
13 who reside within the boundaries of a transportation district created
14 pursuant to NRS 244A.252, voting on the question at a special, primary or
15 general district election, the board of county commissioners may impose
16 the tax within the boundaries of the transportation district upon all persons
17 in the business of providing lodging. The question may be combined with a
18 question submitted pursuant to NRS 278.710.

19 2. A special election may be held only if the board of county
20 commissioners determines, by a unanimous vote, that an emergency exists.
21 The determination made by the board of county commissioners is
22 conclusive unless it is shown that the board acted with fraud or a gross
23 abuse of discretion. An action to challenge the determination made by the
24 board must be commenced within 15 days after the board's determination is
25 final. As used in this subsection, "emergency" means any unexpected
26 occurrence or combination of occurrences which requires immediate action
27 by the board of county commissioners to prevent or mitigate a substantial
28 financial loss to the county or to enable the board to provide an essential
29 service to the residents of the county.

30 3. The ordinance imposing the tax must include all the matters required
31 by NRS 244.3352 for the mandatory tax, must be administered in the same
32 manner, and imposes the same liabilities, except:

33 (a) Collection of the tax imposed pursuant to this section must not
34 commence earlier than the first day of the second calendar month after
35 adoption of the ordinance imposing the tax; and

36 (b) The governmental entity collecting the tax ~~must~~ *shall* transfer all
37 collections to the county and may not retain any part of the tax as a
38 collection or administrative fee.

39 **Sec. 5.** NRS 278.710 is hereby amended to read as follows:

40 278.710 1. A board of county commissioners may by ordinance, but
41 not as in a case of emergency, impose a tax for the improvement of
42 transportation on the privilege of new residential, commercial, industrial
43 and other development pursuant to paragraph (a) or (b) as follows:

1 (a) After receiving the approval of a majority of the registered voters of
2 the county voting on the question at a special election or the next primary
3 or general election, the board of county commissioners may impose the tax
4 throughout the county, including any such development in incorporated
5 cities in the county. A county may combine this question with a question
6 submitted pursuant to NRS 244.3351, ~~365.203,~~ 371.045 or 377A.020, or
7 any combination thereof.

8 (b) After receiving the approval of a majority of the registered voters
9 who reside within the boundaries of a transportation district created
10 pursuant to NRS 244A.252, voting on the question at a special or general
11 district election or primary or general state election, the board of county
12 commissioners may impose the tax within the boundaries of the district. A
13 county may combine this question with a question submitted pursuant to
14 NRS 244.3351.

15 2. A special election may be held only if the board of county
16 commissioners determines, by a unanimous vote, that an emergency exists.
17 The determination made by the board of county commissioners is
18 conclusive unless it is shown that the board acted with fraud or a gross
19 abuse of discretion. An action to challenge the determination made by the
20 board must be commenced within 15 days after the board's determination is
21 final. As used in this subsection, "emergency" means any unexpected
22 occurrence or combination of occurrences which requires immediate action
23 by the board of county commissioners to prevent or mitigate a substantial
24 financial loss to the county or to enable the board of county commissioners
25 to provide an essential service to the residents of the county.

26 3. The tax imposed pursuant to this section must be at such a rate and
27 based on such criteria and classifications as the board of county
28 commissioners determines to be appropriate. Each such determination is
29 conclusive unless it constitutes an arbitrary and capricious abuse of
30 discretion, but the tax imposed must not exceed \$500 per single-family
31 dwelling unit of new residential development, or the equivalent thereof as
32 determined by the board of county commissioners, or 50 cents per square
33 foot on other new development. If so provided in the ordinance, a newly
34 developed lot for a mobile home shall be considered a single-family
35 dwelling unit of new residential development.

36 4. The tax imposed pursuant to this section must be collected before
37 the time a certificate of occupancy for a building or other structure
38 constituting new development is issued, or at such other time as is specified
39 in the ordinance imposing the tax. If so provided in the ordinance, no
40 certificate of occupancy may be issued by any local government unless
41 proof of payment of the tax is filed with the person authorized to issue the
42 certificate of occupancy. Collection of the tax imposed pursuant to this

1 section must not commence earlier than the first day of the second calendar
2 month after adoption of the ordinance imposing the tax.

3 5. In a county in which a tax has been imposed pursuant to paragraph
4 (a) of subsection 1, the revenue derived from the tax must be used
5 exclusively to pay the cost of:

6 (a) Projects related to the construction and maintenance of sidewalks,
7 streets, avenues, boulevards, highways and other public rights of way used
8 primarily for vehicular traffic, including, without limitation, overpass
9 projects, street projects and underpass projects, as defined in NRS
10 244A.037, 244A.053 and 244A.055, within the boundaries of the county or
11 within 1 mile outside those boundaries if the board of county
12 commissioners finds that such projects outside the boundaries of the county
13 will facilitate transportation within the county;

14 (b) The principal and interest on notes, bonds or other obligations
15 incurred to fund projects described in paragraph (a); or

16 (c) Any combination of those uses.

17 6. In a transportation district in which a tax has been imposed pursuant
18 to paragraph (b) of subsection 1, the revenue derived from the tax must be
19 used exclusively to pay the cost of:

20 (a) Projects related to the construction and maintenance of sidewalks,
21 streets, avenues, boulevards, highways and other public rights of way used
22 primarily for vehicular traffic, including, without limitation, overpass
23 projects, street projects and underpass projects, as defined in NRS
24 244A.037, 244A.053 and 244A.055, within the boundaries of the district or
25 within such a distance outside those boundaries as is stated in the ordinance
26 imposing the tax, if the board of county commissioners finds that such
27 projects outside the boundaries of the district will facilitate transportation
28 within the district;

29 (b) The principal and interest on notes, bonds or other obligations
30 incurred to fund projects described in paragraph (a); or

31 (c) Any combination of those uses.

32 7. The county may expend the proceeds of the tax authorized by this
33 section, or any borrowing in anticipation of the tax, pursuant to an
34 interlocal agreement between the county and the regional transportation
35 commission of the county with respect to the projects to be financed with
36 the proceeds of the tax.

37 8. The provisions of chapter 278B of NRS and any action taken
38 pursuant to that chapter do not limit or in any other way apply to any tax
39 imposed pursuant to this section.

40 **Sec. 6.** This act becomes effective on July 1, 1999.