

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-third Session
March 29, 2005**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 1:40 p.m. on Tuesday, March 29, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mike McGinness, Chair
Senator Sandra J. Tiffany, Vice Chair
Senator Randolph J. Townsend
Senator Dean A. Rhoads
Senator Bob Coffin
Senator Terry Care
Senator John Lee

GUEST LEGISLATORS PRESENT:

Senator Maggie Carlton, Clark County Senatorial District No. 2
Assemblyman Richard D. Perkins, Assembly District No. 23
Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Chris Janzen, Deputy Fiscal Analyst
Tanya Morrison, Committee Secretary

OTHERS PRESENT:

Paul J. Enos, Retail Association of Nevada
Bowman N. Walchob, Intern to Senator Maggie Carlton, University of Nevada,
Reno
Patty Peters
Charles Peters

Senate Committee on Taxation
March 29, 2005
Page 2

Alfredo Alonso, Southern Wine and Spirits
Bryan Gresh, Wine Institute of California
Andrew List, Executive Director, Nevada Association of Counties
Mary C. Walker, City of Carson City; Douglas County; Lyon County
Dan Holler, County Manager, Douglas County
Edgar Roberts, Administrator, Motor Carrier Division, Department of Motor Vehicles
Anthony Bandiero, Director, Nevada Petroleum Marketers and Convenience Store Association
Nancy J. Howard, Nevada League of Cities

CHAIR MCGINNESS:

We will open the meeting on Senate Bill (S.B.) 167.

SENATE BILL 167: Proposes to authorize Legislature to prescribe temporary exemptions from sales and use taxes. (BDR 32-1086)

SENATOR MAGGIE CARLTON (Clark County Senatorial District No. 2):

I come before your Committee today in an attempt to provide information and gain your support for Senate Bill 167.

This bill requires a question be submitted to the voters on whether the Sales and Use Tax Act of 1955 should be amended to allow the Legislature to establish temporary sales and use tax exemptions, otherwise known as sales tax holiday. The idea of this arose from some of the debate and discussion about car registrations. After comments from some of my constituents and doing some investigation into other states' tax holidays, I thought, if there were ever a surplus again, it would be fair to share it equitably from the 5-year-old to the 85-year-old. Anyone who shops would be able to take advantage of the sales-tax holiday.

This bill gives the people of Nevada the chance to vote on the idea of this holiday. There are a number of states who have adopted similar legislation creating temporary exemptions. Thirteen states have those sales-tax holidays now, as reflected in the handout you were given ([Exhibit C](#)). Within the last few months, other states are considering passing similar legislation. Some states have recently passed this legislation.

All of the 13 states that already have sales-tax-holiday laws have exemptions on clothing. Seven of the 13 states have exemptions on school supplies and accessories, 6 of these states have exemptions on computers and computer accessories, 5 states have exemptions on footwear and shoes and 1 state has exemptions on all retail items.

One of the things pointed out with this bill was to make sure we were in compliance with the Streamlined Sales Tax Project, in which we are an implementing state. The way the bill is written, we have addressed those concerns. If the Department of Taxation feels the need for clearer language in this bill to make sure it complies, I would consider that a constructive amendment.

We did pull some numbers from different counties to get a basic idea of what was considered taxable sales before we moved forward. We could get into a discussion of those numbers right now, but this bill just sends it to a vote of the people to decide if they would allow us to do this. In the general election of 2006, it would go to the vote, and in 2007, the Legislature would have a discussion on how they would implement this. Numbers will be put together in the interim on sales dates, times of business and new taxable sales from which we could extrapolate the amounts and make a decision. We could also take a look at some of the other states to see what we would like to include as far as sales items. If the people vote yes, we would like to have this tax holiday, and then we could put together the intricacies of implementation in this State.

Mr. Chair, I have not had any outspoken opposition to this bill. If that happens here today, I want you to know it has not occurred in my office. I had some concerns about Streamlined Sales Tax and other things, but I have not received any other opposition to this bill.

SENATOR LEE:

This is an interesting bill. Would this include the sales of new vehicles and home supplies, or is the goal to help young families around school time?

SENATOR CARLTON:

The original intention of this was a back-to-school-type holiday with the possibility this tax exemption would be available two different times during the year if the Legislature approved it. The back-to-school period and the after-Thanksgiving blitz could be considered.

The purpose behind this was to eliminate the debate on how to return surplus money back to the public in the future. A sales-tax-holiday is not an option this time because it has to go to a vote of the people. There was not enough time to do this before this Session. If we are lucky enough to have a surplus again, this option could be a vehicle by which we could return this money.

If we had this surplus and the voters had agreed, we could set a time for the sale, an amount that could be exempt and what types of items would be exempt. We can come up with all of the regulations on how we would like to see this implemented. It would let the public have a chance to be involved, and tell us what they would like to do.

CHAIR MCGINNESS:
Could future Legislatures change this?

SENATOR CARLTON:
Yes, Mr. Chair. This bill gives the Legislature flexibility to deal with this in the Legislative year, depending upon where the finances fall. I do not believe vehicles or larger items could be included within the Streamlined Sales and Use Tax Agreement, but I am not sure. A number of other states that have implemented this tax holiday are in compliance with that Streamlined Sales Tax Agreement, and none of them seem to include higher-end, high-ticket items. We would have to make a list of what would be included and what would be excluded. That is what the Legislature would do in 2007.

CHAIR MCGINNESS:
On your handout, [Exhibit C](#), Connecticut lists tax-exempt items as clothing and footwear. Are those the only things exempt during the tax holiday?

SENATOR CARLTON:
They are what Connecticut decided to make exempt. Each state dictates the conditions of its own holiday.

SENATOR COFFIN:
What do the other states that have this tax holiday in place do about sales on the cusp, which could be adjusted into the period of the sales-tax holiday?

SENATOR CARLTON:

We would have to do a little more investigation into some of the administrative aspects of this issue. All of those provisions are outlined in the Streamlined Sales and Use Tax Agreement. We would use that as our guideline and then decide how this would best suit this state.

BOWMAN N. WALCHOB (Intern to Senator Maggie Carlton, University of Nevada, Reno):

For the record, I am Bowman Walchob, intern for Senator Carlton. I attend the University of Nevada, Reno. I helped in the research for this holiday tax.

SENATOR CARLTON:

Mr. Chair, Mr. Walchob did much more than help with this research.

SENATOR TIFFANY:

What is the difference between this bill and the one Assemblyman Wendell Williams tried to pass back when I was in the Assembly?

SENATOR CARLTON:

I believe Mr. Williams was not planning on reimbursing the counties the money. It would have been a hit to each individual county. In this proposal, the State will make all the counties whole. This will be a State sales-tax holiday. If Clark County is impacted by \$5 million a day in sales tax and they do this sale for two days, it would amount to \$10 million. The surplus at the State level will reimburse the county. We have every intention of making sure the counties remain whole and the reimbursement would come from surplus money. I do not believe that was part of Mr. Williams' plan.

MR. WALCHOB:

Assemblyman Williams' bill strictly outlined just school items and did not give the flexibility for the Legislature to expand the exemptions into computer goods or anything else.

ASSEMBLYMAN RICHARD D. PERKINS (Assembly District No. 23):

A sales-tax-holiday in Nevada would benefit us in many ways. The challenges the other states have faced in implementing such a thing are far outweighed by the benefits to the consumers, the citizens and the economy as a whole. This would be good for our retailers, as well, to have that kind of increase in business during that period of time.

SENATOR LEE:

I am concerned this might affect the consolidated tax distribution a little bit. You have great concern any revenue loss in the consolidated tax distribution might hurt the City of Henderson. Have you given any thought to this issue?

ASSEMBLYMAN PERKINS:

I also had a great concern about the City of North Las Vegas. Because the distribution is based upon a lesser amount, as Senator Carlton pointed out in her bill, there is a reimbursement to the counties out of the State surplus for the loss. I would anticipate the formula would act as it does today.

PAUL J. ENOS (Retail Association of Nevada):

I am in support of S.B. 167. Both the retailer and the consumer will benefit from a sales-tax holiday. The retailer would benefit from an increase in activity and the consumer in savings on their purchases. We have also been involved in the Streamlined Sales and Use Tax Project, and we are confident this bill is in compliance with that project. We are willing to work with the Legislature on crafting a sales-tax holiday if this bill is approved by both the Legislature and then by the voters.

SENATOR COFFIN:

What is the source of the surplus we are talking about using to reimburse the counties for these sales-tax holidays? I am worried since we are trying to fund the schools and we are cutting property taxes, which fund the schools. We may harm the schools if we also cut sales tax, since that is one source of the educational funding.

MR. ENOS:

This bill would allow the Legislature to determine what is exempt, when it is exempt and, if there is a year where there is not a surplus, you will not have a sales-tax holiday.

CHAIR MCGINNESS:

We will close the hearing on S.B. 167. I have two bill draft requests (BDR) which we need to take care of, BDR 32-1324 and BDR 32-259.

BILL DRAFT REQUEST 32-1324: Revises method of calculation of gross yield of geothermal operation for purposes of tax on net proceeds of minerals extracted. (Later introduced as [Senate Bill 487](#).)

Senate Committee on Taxation
March 29, 2005
Page 7

BILL DRAFT REQUEST 32-259: Revises method of determining taxable value of certain property. (Later introduced as [Senate Bill 486](#).)

SENATOR TIFFANY MOVED TO INTRODUCE BDR 32-1324 and BDR 32-259.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE AND RHOADS WERE ABSENT FOR THE VOTE.)

CHAIR MCGINNESS:

Senator Amodei has asked us to remove S.B. 237 from our agenda today, so we will hold it for a later hearing date.

SENATE BILL 237: Provides for levy of tax ad valorem to pay costs of prevention and suppression of fires occurring in wild lands or watersheds under certain circumstances. (BDR 31-838)

CHAIR MCGINNESS:

We will open the hearing on Senate Bill 233.

SENATE BILL 233: Makes various changes relating to alcoholic beverages. (BDR 52-154)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No.11):

I bring this bill to you today because Senator Care was contacted by a constituent who wanted to open a wine school in Las Vegas and discovered it was against the law. They could not open a wine school to make production wines and have a warehouse operation for personal wine consumption. Senator Care gave me a call and asked me to introduce this bill.

Senator Care's constituents are down in Las Vegas and would like to testify. They are Charlie and Patty Peters. Mr. Peters works as a sommelier for Caesars Entertainment Incorporated. What this couple would like to do is start a wine-making school. Individuals would pay a fee, make a barrel of wine and make whatever type of wine they would like. The grapes would be ordered out

of California and shipped to Las Vegas in a refrigerated truck. Mr. and Mrs. Peters would have the crushing equipment at their school and all the other equipment needed to make wines and teach wine making. They will train these individuals to test for bacteria. The wine then goes into oak barrels, and they will then have taste testing throughout the year. They will have the bottling equipment to bottle the wines when they have reached maturity. After bottling their wines, the students would then get to make their own labels for their wine. This is basically a hobby, not a business.

Las Vegas is recognized as having some of the best restaurants in the world along with some of the best chefs in the world. Wine goes with the good food served in these restaurants. We have the Cordon Bleu Cooking School in Las Vegas, and regular citizens are attending this school. The students are very interested in cooking and wine. This wine-making school would be one more step they could take to go along with their cooking skills. These wine-making schools would enable people who are hosting a wedding or social event to make their own wine, bottle it and label their own bottles to present as gifts to their guests.

That is the first part of the bill. There is no opposition I am aware of. We have spoken with some of the wholesalers, and they have no opposition because they see this as a hobby.

The second part of the bill has to do with grocery stores and allowing wine tasting in grocery stores. I put that in this bill because I became aware of a situation in Las Vegas. Trader Joe's Company, Incorporated, likes to have wine tastings before the holidays. The week before Thanksgiving, they like to have wine tasting. The people are coming in and asking what wine would go with their turkeys. If they do the wine tasting the week before Thanksgiving, they are disallowed from doing the wine tasting the week before Christmas. There has to be a 45- or 90-day gap between wine tasting in grocery stores. These stores would like to be able to buy a license for the whole year and have wine tasting on a more regular basis. They are more into doing this before a holiday, such as Christmas and Easter. This bill would not be for places like Albertson's, Incorporated, or Safeway Incorporated, but more for boutique-type stores such as Trader Joe's.

SENATOR LEE:

Will these people do all of their wine making in their homes?

SENATOR SCHNEIDER:

You have to go to the school or warehouse to make the wine. Take a look at your handout ([Exhibit D](#)), which shows a wine-making school in New Jersey. You can see the number of barrels they have in the warehouse. Wine making has become so popular around the country. Charlie Peters has been working with this gentleman in New Jersey to do something similar and learn how to run the wine school. The answer to your question is no, you will not make the wine at home. Everyone would have to go to the school to learn the wine-making process and bottle the wine.

The other handout given to you is called "Crush Pad" ([Exhibit E](#)). I printed this from the Internet. This is a wine-making school in downtown San Francisco that does the same thing Mr. and Mrs. Peters are trying to achieve here. The school in San Francisco is a high-end school. They get their grapes out of Napa Valley. Their barrels of wine can run up to \$4,000 a barrel, but they make high quality wines there. The school program and a barrel of wine with Mr. and Mrs. Peters' program would probably run approximately \$1,500 to \$1,600 per entry-level student. That would work out to \$7 to \$8 per bottle of wine.

There are some individuals here today from the retail industries. They are from Lee's Discount Liquors and Ben's Discount Liquors, and they want to make sure this bill would not affect their ability to have wine tastings. We do not want to do anything to affect their wine tastings or wine sales.

SENATOR COFFIN:

Do we understand what is incidental to the principal purpose of convenience stores? They would not be authorized according to this legislation.

SENATOR SCHNEIDER:

That is correct, Senator Coffin.

SENATOR COFFIN:

How do we define them so there is a clear-cut difference? I would like to see convenience stores have a clear definition.

SENATOR SCHNEIDER:

We will have to defer to staff to give us that definition.

Senate Committee on Taxation
March 29, 2005
Page 10

SENATOR TIFFANY:

This question may actually be for Senator Care, since it is his constituent who wants this bill. Are there any other schools like this in the United States, anywhere, and is there a growing demand, need or request for these schools?

SENATOR CARE:

I recall from the conversation I had with my constituents, the answer to that question is yes. In fact, one of the schools we saw in [Exhibit D](#) is the school in New Jersey. In [Exhibit E](#), titled "Crush Pad," it shows a wine-making school in downtown San Francisco.

SENATOR TIFFANY:

Did anybody call any of those schools to see what the state or the county rules were regarding limitations on space or limitations on students they could enroll?

SENATOR SCHNEIDER:

I did not personally call these schools. In California, I know the laws dealing with wine are very liberal.

SENATOR TIFFANY:

Would it be possible to have a member of the staff call at least one school and find out what the state and county regulations would be? If they have been in business over five years, maybe they have figured out all of the problems we might face.

SENATOR SCHNEIDER:

The school in Jersey City, New Jersey, Bacchus School of Wine has been in business quite a while.

SENATOR TIFFANY:

It would be interesting to see the state and county laws and the size of the school facility. We would not want these individuals to start a boutique winery here in Nevada.

SENATOR SCHNEIDER:

This wine would not be for retail sale.

SENATOR TIFFANY:

The school pictured in [Exhibit D](#) looks like a winery.

SENATOR SCHNEIDER:

It does look like a winery warehouse, but that is how popular the school is. The people go in, make a barrel of wine, and leave it until it ages to the point they can bottle it and take it home.

CHAIR MCGINNESS:

We will ask staff if they can work with the Research Division to answer some of these questions.

PATTY PETERS:

My husband and I have researched this wine-school issue extensively over the past year and a half. We went to Bacchus School of Wine in New Jersey and saw their facility. We have also worked with a wine expert, Louis Sodano, in Tinton Falls, New Jersey. Mr. Sodano has been in business for over ten years and has a wine school called "The Wine Experience." Bacchus School of Wine has also been in business for approximately ten years. There are three or four wine schools in the general area of the Bacchus School, and they all do quite well for a small area. The population in their area is about 300,000 people.

We have also met a gentleman who opened his first wine school eight months ago and is opening another wine school in New York City. The warehouse size depends upon how long you have been teaching wine making and the size of your classes. Mr. Sodano has approximately 240 barrels for wine making and most of that is repeat business. Some people take his classes repeatedly to experience the four-step process again. The first step is crushing, and subsequent steps are racking the barrels, bottling and, finally, leaving with a product they are proud they made and learning along the way.

SENATOR TIFFANY:

It seems as though you and your husband are the individuals interested in starting this business and have done the research. Do you know what the other state and county laws require to open a wine-making school?

MRS. PETERS:

There are certain regulations we will have to comply with that involve the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). We had gone to some winery conventions in Pennsylvania that the ATF also attended. We spoke to them about the requirements. Each state is different, and the requirements

will be different. We gave Senator Care some documentation, and some of the regulations required are in that information.

MR. ENOS:

As Senator Schneider stated, we are seeking a clarification of this bill. We would like to add some language so section 2, subsection 1 reads, "A person who operates a grocery store or licensed liquor store... ." We would like to add language to ensure places like Ben's, Lee's Discount Liquors and other wine shops could still have their wine tastings.

CHAIR MCGINNESS:

Mr. Enos, do you have that language with you to give to our staff?

MR. ENOS:

I will get that to your staff today.

SENATOR TIFFANY:

Again, I would like to ask what the other state and county laws are in regard to wine-making schools.

CHARLES PETERS:

The individual who is to purchase the barrel and be the student would need an alcoholic-beverage control card. That was the only stipulation. There was a \$20-licensing fee in the State of New Jersey. I have only investigated this in New Jersey.

SENATOR TIFFANY:

Obviously, we are looking at statute changes here at the State level. We are looking at the county to regulate, license, collect fees and audit these wine-making schools. Does this legislation copy the laws of the other states?

MR. PETERS:

Yes, it copies the laws in New Jersey.

CHAIR MCGINNESS:

Have you worked with anybody in Clark County? Do the county commissioners serve as the liquor board in Clark County? Do you have to get a permit? Does each person taking the class have to get a permit?

MR. PETERS:

In New Jersey, everyone taking the wine-making class was required to obtain a permit which was a \$20 charge.

CHAIR MCGINNESS:

Have you explored anything in Clark County to find out what its regulations might be?

MR. PETERS:

I did go to Clark County's business licensing department regarding this issue, and they told me it was a State issue. I hired an attorney to see if we could get this project going in the State of Nevada. The attorney assured me we could not get anywhere with this issue the way the statute read right now. I have not taken it any further than that.

ALFREDO ALONSO (Southern Wine and Spirits):

We, basically, support this concept. Some issues of how the bill reacts to existing law are of concern to us. With respect to the grocery-store wine tasting, we do have concerns with how suppliers and wholesalers interact in this bill. Right now, the law does not allow the wholesalers to give anything for free to the retailer. Our concern is there is no language in this bill which tightens that up with respect to the tasting. Could a supplier come in and provide free advertising or free wine to the retail store? We would like to talk to the Senators about some things here and, perhaps, come up with a solution. The bill is definitely fixable.

With respect to the instructional wine-tasting facility, again, the concept is something we agree with. There are issues with respect to limitations and what wine is actually given to the public or sold to the public. Is it actually the wine that individuals made? The language in the bill indicates simple wine tasting. I do not know if that section means the wine would come from a wholesaler, or if it is simply the wine manufactured at the school. There are some concerns there as well. We can tighten up most of these issues, but we would like to have time to sit down with Senator Schneider and come up with some amendments.

CHAIR MCGINNESS:

Senator Schneider, it would help if you can work with Mr. Alonso to try and address some of these issues.

SENATOR SCHNEIDER:

We can do that, Mr. Chair. Mr. Alonso brought up some concerns I agree with that may be just the structure of the bill drafting. I know Mr. Peters was not going to be selling wine out of the school, but they will be doing barrel tasting in the school. Anyone who owns a barrel can share with others during the tasting. This wine will not be for retail sales.

CHAIR MCGINNESS:

At the barrel tasting, you would taste other people's wines, correct?

SENATOR SCHNEIDER:

That is correct, Chair McGinness.

SENATOR CARE:

This is addressed to Mr. Alonso and the others who are concerned about the wording in section 2 of this bill. In Nevada, the tavern keeper is not liable for the conduct of a customer once he leaves the premises. If there is an accident, a third party cannot assert a claim against a tavern keeper. I question if liability would attach to the grocery store or to the liquor store. Grocery stores limit the amount of alcohol they allow a person to taste, and I am sure the wineries in California have some sort of system whereby they limit the amount of alcohol served to a customer. I am just asking if there is some exposure or liability if we pass this bill. Could staff take a look at this bill and determine liability?

MR. ALONSO:

I agree this is an issue. We, on behalf of Southern Wine and Spirits, obviously like the concept, but it creates a liability issue that needs to be addressed.

SENATOR SCHNEIDER:

There are two parts to this bill, and I was trying to accommodate Trader Joes's because they do a wine tasting. Grocery stores can do the wine tasting right now, although they have to abide by a 45 or 90-day gap rule. The big retail chains choose not to have wine tasting which may be due to liability issues. We can find out the exposure to Ben's and Lee's Discount Liquors. Lee's in Las Vegas has their wine tasting area open every day.

CHAIR MCGINNESS:

Why is Trader Joe's any different than Ben's or Lee's?

SENATOR SCHNEIDER:

Trader Joe's is in the grocery business and not exclusively in the liquor business.

MR. ALONSO:

That is correct. We would simply want to add them to the statute dealing with the current licensees that can do wine tasting like Ben's, Whispering Vines and Lee's.

SENATOR COFFIN:

Mr. Alonso, I address this question to you. I know you are familiar with these resale laws. If a group of people get together and they develop a knack for making a good vintage, would they be allowed to sell it to a wholesaler or distributor of alcoholic beverages?

MR. ALONSO:

If you decided to create a wine-producing business, you would go through the current three-tier system and acquire a wholesaler. They could sell it directly to the retailer, who would then sell it to the public.

SENATOR COFFIN:

If an individual made a particularly good wine, could you market it through the wine-making schools?

MR. ALONSO:

I believe it is possible.

SENATOR COFFIN:

I do not know if you would have to purchase it from the person who owns the barrel or the individual who owns the school.

SENATOR SCHNEIDER:

If we could make wine of that quality, we would just go to California, buy a winery and go into business for ourselves.

SENATOR COFFIN:

Is there any prohibition here against making a higher alcoholic-content or higher sugar-content wine?

Senate Committee on Taxation
March 29, 2005
Page 16

SENATOR SCHNEIDER:
No, I do not believe so.

MR. ALONSO:
I will get that information for the Committee, as well.

MR. PETERS:
I want to assure you the premise of the wine-making school is not to make wine for resale in any way, shape or form. It is for personal use and enjoyment only. At no time was it ever designed to be moved up the chain. It is strictly for personal use.

BRYAN GRESH (Wine Institute):
We are here today in support of Senator Schneider and S.B. 233. In the interest of not getting sideways with the Committee or the Chair, we will keep our comments brief. Thank you.

CHAIR MCGINNESS:
We will close the hearing on S.B. 233 and open the hearing on Senate Bill 181.

[SENATE BILL 181](#): Authorizes certain counties, upon approval of voters, to impose additional taxes on certain motor vehicle fuels. (BDR 32-596)

ANDREW LIST (Executive Director, Nevada Association of Counties):
Before you for consideration is S.B. 181, which would allow smaller counties, those with less than 100,000 people, to index fuel taxes if voters approve. We seek your support on this bill. It was brought forward by the Nevada Association of Counties (NACO) board of directors and approved unanimously by all 17 counties at our August 13, 2004, board of directors meeting. Here at the table with me is Mary Walker. She represents Lyon, Carson and Douglas Counties. Also with me today is Dan Holler, the County Manager for Douglas County. Ms. Walker and Mr. Holler are here today to help explain the intricacies of this piece of legislation.

MARY C. WALKER (City of Carson City; Douglas County; Lyon County):
This bill allows counties with a population of less than 100,000 citizens to go to their voters and ask to index the fuel tax to the 5-year average Consumer Price Index (CPI). If the voters approve this ballot question, the four local-option fuel taxes will be increased annually by the most recent five-year average of CPI.

Washoe County voters approved fuel-tax indexing a few years ago, and S.B. 181 is modeled after that effort.

I have a simple chart I want to go over with you ([Exhibit F](#)). There are four fuel taxes which would be affected. The first is the 3.6-cent fuel tax. The last 5-year average CPI is 2.72 percent. If this was enacted this year, for example, the 3.6-cent fuel tax would go to 3.7 cents. That is a 1/10 of 1 percent difference. The second fuel tax is the 1.75-cent fuel tax. If that were increased to 2.72 percent, it would go to 1.8 cents which is 5/10 of 1 percent. The third tax is the 1-cent, county-option fuel tax. If that were increased, it would go to 1.03 cents, which is 3/10 of 1 percent. We then have a 9-cent regional transportation commission tax that would go to 9.24 cents, which is about 1/4 of 1 percent.

You can see, in the notation on [Exhibit F](#), these were enacted primarily in the 1980s, and they have not been changed since then. Since 1982-1983, the fuel tax has lost 93 percent of its buying power. It is important to try to capture some of that buying power. Senate Bill 181 would allow the local fuel taxes to grow by the CPI to stop the erosion of our tax dollars. We would appreciate your support of this measure as road funding is limited in rural Nevada. This provides a moderate and reasonable means to fund road and street maintenance and construction, with voter approval.

DAN HOLLER (County Manager, Douglas County):

We helped bring this bill to NACO for consideration. We were looking at ways to enhance road funding. Most of you know, throughout the State, we do not have adequate funding for roads. One of the recent challenges in our 5-year transportation-planning process was an approximate \$1 million of shortfall annually. We are trying to figure different ways to fund this shortfall. We have had a challenge in taking part of a 5-cent gas tax forward, with voters turning that down twice.

One of the issues with individuals looking at a smaller bite of the apple is the option where the CPI increases and you can impose a smaller level of increase. People tend to have a better grasp when you talk about a CPI normal cost increase. We have been looking at various options to do this. It seems to be working in Washoe County, at this point in time. The bill will still apply with some of the limits. The maximum it can go to is 4.5 percent, so there are some caps built into the bill. It is a real concern for rural Nevada, and this seems to be

a practical way of bringing in some additional funding for road maintenance, operations and repair work. It worked in Douglas County, and hopefully, will work in the other rural counties, as well.

SENATOR CARE:

What is the difference between "product" and "sum"?

MR. LIST:

That is a technical change put into the bill by the Legislative Counsel Bureau. Sum refers to addition and products to multiplication. That is the difference in the bill.

SENATOR TIFFANY:

I do not know any county commissioner who would want to add tax to gas, right now. How much money are you looking at generating from this tax? Are you looking to generate it as a revenue source to bond against?

MS. WALKER:

Yes, we do have numbers in regard to what it would generate. In regard to bonding, no, we would not bond against this money. We would just use it for operating.

MR. HOLLER:

If you look at the rural counties outside of Washoe County, just under \$900,000 would be generated just from those counties. Douglas County is looking at about \$65,000 additional money with the 2.7-percent increase which would go into effect based on the last CPI review. We are looking at small increases over time. The money would primarily be for operations such as chip sealing, crack seal and fixing potholes. If it is treated as the other gas taxes, we do pledge some of those to bond issues when we have larger projects. We then balance that off with how much interest we want to pay, versus pay as you go. Our preference is the pay-as-you-go program, so there is not as much in interest. We do use bonding for large projects, as well as the ongoing maintenance issues.

SENATOR TIFFANY:

Ms. Walker just said this money goes for operating overhead, so it does not go to fix the potholes and seal the cracks.

MR. HOLLER:

Our operations include the regular road maintenance crews who fix the roads. It is not paying the overhead. For instance, it does not pay my salary. It is paying for operational costs in the road department, whether that is snowplowing, pothole patching, drainage and those types of things the road department does. If we do a large project of road construction, we do that as a contract. We do some of those as a bond and some as pay-as-you-go projects. A lot of the ongoing, normal operational and maintenance activities are done through the county crews.

CHAIR MCGINNESS:

Correct me if I am wrong, but was it last Session or the Session before when we changed the formula and the rural counties were held harmless. That meant you would never get any more money than you are getting now, did it not? Is this part of the result of that issue?

MS. WALKER:

This could help the small counties a great deal by giving them, at the least, an inflationary amount. You are right. We did hold the rural counties harmless and kept them stationery without any increase. This does help them.

MR. LIST:

We have some proposed amendments to this piece of legislation. One is from Anthony Bandiero from the Petroleum Marketers Association, and we have agreed to work out some language.

EDGAR ROBERTS (Administrator, Motor Carrier Division, Department of Motor Vehicles):

It is a pleasure to speak to you today regarding S.B. 181. The Department of Motor Vehicles (DMV) is responsible for collection and distribution of gas-tax monies. The Department currently has no position on this bill, however, there is a fiscal impact to the Department, and we have submitted a fiscal note ([Exhibit G](#)) on this bill. As written, the bill will allow Nevada counties, excluding Clark County, to increase their gas-tax rates on an annual basis by a percentage indexed to the Consumer Price Index. The Department has estimated there will be additional costs as well as revenue associated with the implementation of S.B. 181, as reflected in [Exhibit G](#). The Department currently receives a commission of 1/2 of 1 percent currently on the Washoe County index. However, the net expenses or cost to DMV in Fiscal Year (FY) 2006 is

\$13,900; in FY 2007, the net expense cost to DMV is \$3,700; and in future biennia, the net expense cost to DMV is \$8,400.

CHAIR MCGINNESS:

Are those costs as a result of this bill?

MR. ROBERTS:

Yes, those expenses are a result of this bill. I Propose *Nevada Revised Statute* (NRS) 373.080 be amended to specify the Department is entitled to 1 percent of fuel tax collected. The money would then be remitted to the counties to cover the expenses of this bill to the DMV, or if the Committee chooses, our expenses are covered in our budget.

ANTHONY BANDIERO (Director, Nevada Petroleum Marketers and Convenience Store Association):

I have brought forward an amendment ([Exhibit H](#)) which is fair with this bill. Basically, counties have the option to increase their gas tax up to 5 cents. They do not have to do it all at one time, but they can increase up to 5 cents. My amendment states, before asking the voters to approve the CPI increase to their gas tax, they have to first implement the maximum, optional county tax as available under NRS 373.030. There has been an issue brought forward that this would prevent some counties from actually doing this in the first place because they had a problem initiating their 5-cent increase. I will work with NACO, basically, to see if we can work out some language.

We think the DMV requesting 1-percent collection on this tax is germane because this is a lot more money to administer. We support this request.

MR. LIST:

By way of clarification, the NRS provision Mr. Bandiero is speaking of, NRS 373.030, allows up to 9 cents additional levy by the counties. Right now, there are 7 counties that have only levied 4 cents, the rest have all levied the 9 cents. The counties that have only levied the 4 cents and have an additional 5 cents to go are Douglas, Elko, Esmeralda, Lander, Lincoln, Nye and White Pine. These counties do have an additional 5 cents to levy. We will work with Mr. Bandiero to figure out how to make this bill work. Mr. Bandiero is saying these counties have to implement everything they can, up to 9 cents, before going to the indexing. Douglas County has tried for voter approval of the additional 5 cents twice, and that has failed with the voters. The counties

believed going to the voters with the indexing might be more palatable because the amounts were a lot smaller. They have either implemented the 5 cents or attempted to implement the 5 cents before seeking the indexing. That would be the text in the amendment we are working on.

SENATOR TIFFANY:

This question is for Mr. Roberts. If you are already collecting and distributing the taxes, why would you have a fiscal note on this bill?

MR. ROBERTS:

The DMV currently collects the taxes for Washoe County, however, this bill adds 15 other counties, which will be an addition in our programming costs. We have a tax administrator who oversees the program and is responsible for updating the program every year. It also affects our audit staff members who have to ensure the adjustments and collections between the counties have been handled correctly.

SENATOR TIFFANY:

You are adding counties you did not have before. Which counties are you adding?

MR. ROBERTS:

The only county we currently distribute for is Washoe County. We have to add the rest of the counties, excluding Clark County.

SENATOR TIFFANY:

You have to add 15 counties, assuming the counties vote for this increase. Can this pass if one county votes in favor and another county does not?

MR. ROBERTS:

It is county by county.

SENATOR TIFFANY:

You would adjust that fiscal note by whoever decided to implement this tax.

MR. ROBERTS:

That is correct. We assume all 15 counties will vote in favor of this increase.

MR. LIST:

Just for clarification, the gentleman from DMV said he would like to change the 1/2-percent commissions to 1 percent. I am not sure if that is 1 percent of all gas revenues collected or just 1 percent of the additional levy that this generates. If it is 1 percent on all additional gas taxes collected, that would eat up anything we could gain from indexing the fuel taxes.

MR. ROBERTS:

It is only for the counties we index, that it would raise from 1/2 of a percent to 1 percent, which would cover our expenses.

CHAIR MCGINNESS:

Can you work with all parties involved to try to work this out?

MR. LIST:

Mr. Chair, we certainly will work together.

CHAIR MCGINNESS:

Is there anyone else to testify on S.B. 181?

NANCY J. HOWARD (Nevada League of Cities):

I tend to agree with you. I am not sure who is going to raise gasoline taxes right now. This is enabling legislation, and we wanted to go on record as being in support of it.

CHAIR MCGINNESS:

Does anyone else want to testify on S.B. 181? We will close the hearing on S.B. 181. We have a work session on the schedule for some of the bills we heard last week. We will start with Senate Bill 169.

SENATE BILL 169: Authorizes boards of county commissioners of smaller counties to use money in infrastructure fund for certain projects, facilities and activities. (BDR 32-147)

CHAIR MCGINNESS:

Mr. Janzen, you were going to ask the Legal Division about "operation" and "maintenance." Did you get an answer?

Senate Committee on Taxation
March 29, 2005
Page 23

CHRIS JANZEN (Deputy Fiscal Analyst):

Yes, I did, Mr. Chair. The provision in question only applies to section 1, subsection 3, paragraph (b) and not the other subparagraphs, which I believe was the question from the Committee.

CHAIR MCGINNESS:

That was the only question on the bill, and there were no amendments proposed.

SENATOR LEE MOVED TO DO PASS S.B. 169.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR MCGINNESS:

We will now open the hearing on Senate Bill 170.

SENATE BILL 170: Authorizes certain smaller counties to impose additional local sales and use tax under certain circumstances. (BDR 32-853)

CHAIR MCGINNESS:

The only amendment was from Ms. Spriggs of the Nevada Taxpayers Association. She asked if we could limit this to 30 years. With the amendment, this bill would conform to similar bills.

SENATOR COFFIN MOVED TO DO PASS S.B. 170.

SENATOR LEE SECONDED THE MOTION.

SENATOR CARE:

I will vote against this, and then if it fails, I am going to move to amend and do pass.

SENATOR COFFIN MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.B. 170.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR COFFIN MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 170.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR MCGINNESS:

We will now open the hearing on Senate Bill 180.

SENATE BILL 180: Increases maximum amount of compensation board of county commissioners is authorized to provide for certain members of county board of equalization. (BDR 32-453)

CHAIR MCGINNESS:

This is the only bill that had absolutely no opposition.

SENATOR TIFFANY MOVED TO DO PASS S.B. 180.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR MCGINNESS:

We will now open the hearing on Senate Bill 186.

SENATE BILL 186: Makes various changes concerning appeals to State Board of Equalization. (BDR 32-585)

Senate Committee on Taxation
March 29, 2005
Page 25

CHAIR MCGINNESS:

Mr. List, would you please come forward and help us with the amendments.

MR. LIST:

The amendment would take out the reference to the Administrative Procedures Act and allow the county assessor to appeal the State Board of Equalization's decision directly to the district court without the additional procedures outlined in the Administrative Procedures Act. In other words, county assessors could use the same procedures the taxpayers currently use. I discussed this with Dino DiCianno of the Department of Taxation, and he approves of this amendment.

CHAIR MCGINNESS:

As I recall, this was on legal matters rather than matters of assessment.

MR. LIST:

For clarification, yes, it is on issues of law only and not on valuation.

MR. JANZEN:

For clarification Mr. Chair, I am going to refer to the amendment Mr. List handed out last week. What we are talking about doing to his amendment is striking the last line of subparagraph 6, putting a period at the end of "decisions" and striking "in accordance with the provisions of chapter 233B of NRS." Is that correct?

MR. LIST:

That is correct.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 186.

SENATOR RHOADS SECONDED THE MOTION.

SENATOR CARE:

Mr. List, does this bill moot the appeal?

Senate Committee on Taxation
March 29, 2005
Page 26

MR. LIST:

Yes, this bill will moot the appeal, and the county would be able to continue their action at district court on the legal issues before the district court. That is the Mineral County case and the Carson City case.

SENATOR CARE:

As I recall, Mr. Chair, there was nobody here who spoke on behalf of the respondent, correct?

MR. LIST:

That is correct, Senator Care. The taxpayer was not here and did not testify.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR MCGINNESS:

There being no further business, this meeting is adjourned at 3:05 p.m.

RESPECTFULLY SUBMITTED:

Tanya Morrison,
Committee Secretary

APPROVED BY:

Senator Mike McGinness, Chair

DATE: _____