

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-third Session
May 5, 2005**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 2:11 p.m. on Thursday, May 5, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Randolph J. Townsend
Senator Dean A. Rhoads
Senator Bob Coffin
Senator Terry Care
Senator John Lee

COMMITTEE MEMBERS ABSENT:

Senator Sandra J. Tiffany, Vice Chair (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman David R. Parks (Clark County Assembly District No. 41)

STAFF MEMBERS PRESENT:

Chris Janzen, Deputy Fiscal Analyst
Ardyss Johns, Committee Secretary
Tanya Morrison, Committee Secretary

OTHERS PRESENT:

Dino DiCianno, Deputy Executive Director, Department of Taxation
Marvin A. Leavitt, Urban Consortium

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Edgar Roberts, Administrator, Motor Carrier Division, Department of Motor Vehicles
Andrew List, Nevada Association of Counties
Michael R. Alastuey, Clark County

CHAIR MCGINNESS:

We are going to open this meeting with Bill Draft Request (BDR) 32-1452.

BILL DRAFT REQUEST 32-1452: Revises provisions governing property taxes.
(Later introduced as [Senate Bill 509](#).)

SENATOR TOWNSEND MOVED FOR COMMITTEE INTRODUCTION OF
BDR 32-1452.

SENATOR RHOADS SECONDED THE MOTION.

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

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CHAIR MCGINNESS:

We will close the hearing on BDR 32-1452 and open the hearing on Assembly Bill (A.B.) 503.

ASSEMBLY BILL 503: Extends period during which Department of Taxation may issue deficiency determination under certain conditions. (BDR 32-389)

DINO DICIANNO (Deputy Executive Director, Department of Taxation):

For your consideration today, A.B. 503 is submitted on behalf of the Department of Taxation. This bill tolls the statute of limitations with respect to when a particular business files a refund claim. We are asking for this because in most cases when a taxpayer files a refund claim it is for one particular liability they may or may not owe. The concern the Department has is they may have other outstanding liabilities associated with the period for which that refund claim is being requested.

I need to clarify this issue. If the taxpayer is due a refund, they will receive the refund. However, it does not make much sense to refund one particular liability

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to a taxpayer when, in fact, they have outstanding liabilities in other areas. Let me give you an example. They may have a sales- and use-tax credit due them based upon the refund they sent, but they could have an outstanding modified-business-tax liability. It makes no sense to refund money when they actually owe money. We want to net that out for these taxpayers. That is the basis for this bill which would become effective in October.

SENATOR CARE:

What would happen during the tolling period? If somebody makes an application for a refund, would you then run a search to see if this taxpayer shows up somewhere else owing money, and how long would the tolling period last? Did you have a 30- or 60-day waiting period in mind?

MR. DiCIANNO:

It would be a 90-day period.

SENATOR CARE:

If you get the request for the refund, would there be some taxpayers you could automatically process the refund for, or would you toll them in all cases?

MR. DiCIANNO:

It would be a case-by-case basis. If we receive a refund request from a particular taxpayer and we know they do not owe any other taxes, they would receive that refund. There is no question about that. We would still do our due diligence, but it would be quickly rather than waiting the 30, 60 or 90 days to do that work.

CHAIR MCGINNESS:

We will close the hearing on A.B. 503 and open the hearing on A.B. 547.

ASSEMBLY BILL 547: Revises formula for distribution of revenue from tax on certain motor vehicle fuel. (BDR 32-423)

ASSEMBLYMAN DAVID R. PARKS (Clark County Assembly District No. 41):

I am here to speak in support of A.B. 547. This is a bill that came from the Legislative Committee for Local Government Taxes and Finance which is the statutory committee created by the Legislature and consists of eight Legislators. The Committee consults with an 11-member advisory committee consisting of the director of the Department of Taxation as well as 9 members appointed by

groups representing local governments and various geographic areas of the State. There is also one member who represents general improvement districts. This bill revises the distribution of fuel-tax revenue among local governments within a county. The distribution formula is based two-thirds on population and one-third on roadway mileage and holds harmless any counties that would be adversely affected.

With me this afternoon is Marvin Leavitt. Mr. Leavitt served on the advisory committee. He was the head of the distribution analysis for revising the distribution of motor vehicle fuel taxes.

MARVIN A. LEAVITT (Urban Consortium):

I would like to give a little background as to where this bill comes from and what it can do and cannot do. First of all, this is what we call the second tier for the distribution of gasoline taxes. In other words, it does not affect any distribution between counties, but affects distribution within the county in a limited area. It provides that a local government, either city or county, will get credit for the miles of road they actually maintain as opposed to the existing formula. Currently, counties can get credit for miles within their jurisdiction that are maintained by another entity. For instance, a county gets credit for roads maintained by the Nevada Department of Transportation. The existing law goes back to an old designation which has not been in effect for approximately ten years called nonfederal aid primary roads. The Department of Transportation has maintained an inventory of those roads even though that no longer exists through the federal government.

This bill is a four-part formula involving population, area, road miles and miles driven. The local government would get credit for the miles they actually maintain and not for the miles someone else maintains. That would apply to both of those categories. In those counties which do not have incorporated cities, it would have no effect on the distribution. On the counties with incorporated cities, it will have some effect, but there is also a provision in the bill that is a harmless provision to provide nobody would get less money than they are getting in the current year. Any change in the formula will only come about as the total amount of gasoline tax increases over time.

The Legislative Committee and the advisory committee voted unanimously in favor of this bill. It is an interesting situation because, in general, although not true entirely throughout the State, the bill benefits cities to the detriment of

counties. The effect is fairly small, but that is what happens. Since the concept is so inherently fair—you get credit for what you maintain and not what someone else maintains—representatives from the counties, as well as the cities, on the advisory committee were all in favor of the bill when it was presented to them. It was then presented to the Legislative Committee.

SENATOR RHOADS:

I served on that Committee a long time ago. At one time, we discussed the fact the roads in northern Nevada get colder with more moisture. There should be a factor in the bill to give them more money because of the added cost to maintain or build these roads. Was that discussed in these meetings?

MR. LEAVITT:

We had a lot of discussion regarding that issue when dealing with the first-tier distribution which affected the various counties. We eventually did not do anything because we ran into the problem of factoring in weather issues in the north versus more lanes of roads to maintain in the south. We also discussed the fact that a lot of roads in the north are gravel or dirt roads and those are factored in differently than asphalt roads. We came to the conclusion that a mile of road is a mile of road, no matter where it is located. We use centerline-mile roads and try not to factor anything else into it. We based that formula on two-thirds population and gave credit for how much the road is used by the population. Using straight road miles, we probably gave some benefit to the rural and northern counties simply because those roads are not used as much as they are in the south. In balance, the formula is fair without becoming so complex it would be difficult to administer.

CHAIR MCGINNESS:

I have served on this Committee as well, and it is an exhausting process. The advisory committee may meet a couple of times on an issue and the Legislative Committee then grinds over what they have done. By the time the bill comes out of committee, it has been well dealt with and all the issues discussed.

I want to assure this Committee, when they come forward to tell us everybody is on board with a bill, then that is how it is.

ASSEMBLYMAN PARKS:

Yes, that is exactly how it is. With the assistants, we have eight members on the Committee. Former Senator Ann O'Connell was the chair of the Committee

in the last interim and I served as vice chair. We also had Senator Hardy, Senator Neal, Assemblymen Grady and Hardy, Assemblywoman Pierce and Chair McGinness as members of the Committee.

The advisory committee does most of the heavy lifting on this Committee. The 11 members who serve on that Committee are the experts in the area of local government finance and operations. I would be remiss if I did not include all the work the Nevada Department of Transportation provides in support of our efforts, especially the efforts in front of you today.

SENATOR CARE:

I recall, as Senator Rhoads does, serving on this Committee during one interim. Is this the product of years and years of work or is it customary to see this legislation every session? I do not recall seeing this before. Maybe I have and just do not remember. Is this the final product after what must have been years in the works?

MR. LEAVITT:

This is the final product after essentially four years of work. When you did the first tier it took five years and this second tier took four years. It is not a speedy process.

CHAIR MCGINNESS:

There were some individuals who wanted to introduce this last Session, but the advisory committee decided it was not ready. That should give this Committee some comfort. We have put a lot of time into this bill and have had a lot of input.

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

The Department of Motor Vehicles (DMV) is responsible for the collection and distribution of the motor-fuels tax and currently has no position on this bill. However, the DMV has submitted a fiscal note reflecting the added programming expenses DMV would incur should A.B. 547 pass. The bill changes the distribution of the county excise tax levied pursuant to *Nevada Revised Statute* (NRS) 365.180 to both the counties and the incorporated cities. Currently, the distribution of this portion of the county tax is completed only to the county level. Each county is then responsible for distributing the correct portion of the fuel tax to each applicable city.

I am here today to request DMV's expenses incurred, as reflected in our fiscal note ([Exhibit C](#)) in implementing the required changes, be included in our budget through an appropriation should A.B. 547 pass. Also, due to the number of programming hours and the DMV having to enter into contracts with each city, DMV is requesting the effective date be moved to July 1, 2006, should this bill pass.

CHAIR MCGINNESS:

Did you submit this fiscal note to the Assembly Committee on Transportation?

MR. ROBERTS:

Yes, this is the same fiscal note the Assembly Committee received.

CHAIR MCGINNESS:

They decided not to refer this to the Assembly Committee on Ways and Means?

MR. ROBERTS:

Mr. Chair, it was passed out of their Committee.

ANDREW LIST (Nevada Association of Counties):

I am here to say we support this bill despite the fact it is slightly detrimental to counties and does, over time, shift some of the revenues collected through fuel tax from the counties to the cities. I support this bill for a few different reasons. The first reason is, as Mr. Leavitt stated, the inherent fairness of the bill. We should not be using portions of the roads not maintained by the counties in that part of the formula. That is simply not fair.

Secondly, we support the work done by the Interim Committee for Local Government Taxes and Finance, commonly referred to as the Tax Distribution Committee. They put a lot of time, effort and deliberation into this bill and we support the work they have done. For the record, we support this bill.

CHAIR MCGINNESS:

We will close the hearing on A.B. 547 and open the hearing on Assembly Joint Resolution (A.J.R.) 16.

ASSEMBLY JOINT RESOLUTION 16: Proposes to amend Nevada Constitution to provide requirements for enactment of property and sales tax exemptions. (BDR C-422)

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ASSEMBLYMAN PARKS:

I am here to speak in favor of A.J.R. 16. Briefly, this is the result of some of the changes that have taken place and trying to be consistent with the Streamlined Sales Tax Initiative. I request you support this measure.

MICHAEL R. ALASTUEY (Clark County):

I am also privileged to have served as a member of the technical working group advising the Legislative Committee for Local Government Taxes and Finance. You may recall in previous Sessions you have talked about tax exemptions at great and painful length, especially last session when revenues were an issue. This particular measure has consensus support and it is to be hoped, the next perfected generation of a previous resolution. That resolution passed in one session, but did not pass the second session because there were some language problems. We think the language problems over the previous resolution have been fixed.

The difference in the language from this resolution and the previous one was the inclusion of the word "or" in some of the requirements of the resolution. It was not particularly clear whether any of those requirements singly would qualify or support an exemption. Some effort was undertaken to clarify the language, and this resolution does accomplish that.

In favor of passage, I would like to point out this is prospectively effective and does not repeal any existing exemption. It does not adversely affect any proposals currently in the Legislature from going forward as far as placement of questions on the ballot for sales-tax exemptions. This can be considered separate, apart and not an impediment to any other proposals you have before you.

The bill, constitutionally, must be put to a test by the Legislature and a finding be made to justify an exemption. It also requires, whenever an exemption is established, a sunset date be established at that time.

SENATOR CARE:

If this passes, does it impede the placement of questions before the voters and the future of ballot questions as to exemptions?

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MR. ALASTUEY:

My understanding is this would not impede the placement of questions before the voters.

CHAIR MCGINNESS:

Is this going to definitively take care of all our exemption problems?

MR. ALASTUEY:

This issue has been discussed and all the questions have been answered. Some of the members of the advisory committee and I spent a great deal of time, with the able guidance of Carole Vilardo, to get to this point.

CHAIR MCGINNESS:

We will close the hearing on A.J.R. 16. You have a list of bills in your folders. Some of these bills we heard last week. We will open with A.B. 67.

ASSEMBLY BILL 67: Authorizes Department of Taxation to suspend or revoke business licenses. (BDR 32-392)

SENATOR TOWNSEND MOVED TO DO PASS A.B. 67.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

CHAIR MCGINNESS:

We will close the hearing on A.B. 67 and open the hearing on A.B. 68.

ASSEMBLY BILL 68: Authorizes Department of Taxation to deny licenses or permits to persons liable to Department for payment of money. (BDR 32-390)

SENATOR RHOADS MOVED TO DO PASS A.B. 68.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

CHAIR MCGINNESS:

We will close the hearing on A.B. 68 and open the hearing on A.B. 163.

ASSEMBLY BILL 163: Revises provisions governing reporting and certification of gross yield and claimed net proceeds of minerals extracted for purposes of taxing such proceeds. (BDR 32-640)

SENATOR CARE MOVED TO DO PASS A.B. 163.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

CHAIR MCGINNESS:

We will close the hearing on A.B. 163 and open the hearing on A.B. 292.

ASSEMBLY BILL 292: Requires earlier filing of statements of estimated gross yield, net proceeds and royalties by persons extracting minerals. (BDR 32-1278)

SENATOR TOWNSEND MOVED TO DO PASS A.B. 292.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

CHAIR MCGINNESS:

We will close the hearing on A.B. 292 and open the hearing on A.B. 404.

ASSEMBLY BILL 404: Removes exemption for certain landlords from provisions relating to landlords and tenants and exempts certain landlords from requirements for state business license. (BDR 10-646)

CHAIR MCGINNESS:

As you recall, Mr. DiCianno was concerned about language problems in A.B. 404. There was language in this bill that stated whether or not a landlord of four or fewer units required a business license. We wanted to get that changed to the language included in Senate Bill (S.B.) 392.

SENATE BILL 392 (1st Reprint): Makes various changes to state financial administration. (BDR 32-683)

My proposal is to leave the language in S.B. 392, so we would strike sections 2 and 3 and leave the other portion of the bill Mr. Sasser, Mr. Schultz and Assemblywoman Leslie talked about with regard to giving landlords the same protection as those with four or more units.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 404.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:

We will close the hearing on A.B. 404 and reopen the hearing on A.B. 418.

ASSEMBLY BILL 418 (1st Reprint): Authorizes Board of County Commissioners of Clark County to increase sales tax to employ and equip additional police officers. (BDR S-413)

CHAIR MCGINNESS:

Senator Coffin feels we should have a full Committee to take a vote on this bill.

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SENATOR TOWNSEND:

I agree with Senator Coffin. I would like to hear all of the Clark County members' thoughts on this bill.

CHAIR MCGINNESS:

We will close the hearing on A.B. 418 and process A.B. 503.

SENATOR TOWNSEND MOVED TO DO PASS A.B. 503.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

CHAIR MCGINNESS:

We will now reopen the hearing on A.B. 547. I want to address Mr. Roberts' question regarding the fiscal note on this bill so we will hold it until we get that information. We will close the hearing on A.B. 547 and reopen the hearing on A.J.R. 16. We heard testimony from Assemblyman Parks and Mr. Alastuey on the exemptions.

SENATOR RHOADS MOVED TO DO PASS A.J.R. 16.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:

There being no further business, this meeting of the Senate Committee on Taxation is adjourned at 2:40 p.m.

RESPECTFULLY SUBMITTED:

Tanya Morrison,
Committee Secretary

APPROVED BY:

Senator Mike McGinness, Chair

DATE: _____