

**MINUTES OF THE  
SENATE COMMITTEE ON TAXATION**

**Seventy-fifth Session  
May 15, 2009**

The Senate Committee on Taxation was called to order by Chair Bob Coffin at 7:33 p.m. on Friday, May 15, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Bob Coffin, Chair  
Senator Terry Care, Vice Chair  
Senator Michael A. Schneider  
Senator Maggie Carlton  
Senator Mike McGinness

**COMMITTEE MEMBERS ABSENT:**

Senator Randolph Townsend (Excused)  
Senator Maurice E. Washington (Excused)

**STAFF MEMBERS PRESENT:**

Brenda Erdoes, Legislative Counsel  
Joe Reel, Deputy Fiscal Analyst  
Mike Wiley, Committee Secretary

**OTHERS PRESENT:**

Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter  
John Madole, Executive Director, Associated General Contractors of America, Nevada Chapter.  
Peter D. Krueger, Nevada Petroleum Marketers and Convenience Store Association  
Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce  
Paul J. Enos, CEO, Nevada Motor Transport Association

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Ray Bacon, Nevada Manufacturers Association  
Josh Griffin, Biodiesel of Las Vegas, Inc.

CHAIR COFFIN:  
I will open the hearing on Assembly Bill (A.B.) 492.

ASSEMBLY BILL 492 (1st Reprint): Imposes certain requirements on the enactment of legislation and the provision of notice regarding certain tax abatements and exemptions. (BDR 32-602)

CHAIR COFFIN:  
We have an amendment that would create a standing committee appointed by the Legislative Commission to evaluate, review and make recommendations on abatements and exemptions. Assemblywoman Marilyn Kirkpatrick, as the sponsor of this bill, has approved this amendment.

JOE REEL (Deputy Fiscal Analyst):  
I have prepared testimony ([Exhibit C](#)).

CHAIR COFFIN:  
Does the Committee have any objection to putting this amendment in the bill?  
Do we have a motion?

SENATOR CARLTON:  
There have been discussions on truing up the standing committees with the statutory committees and having some of them continue their work through the interim. With adoption of this amendment, would this bill have to go to the Committee on Legislative Operations and Elections to deal with this standing committee?

CHAIR COFFIN:  
It would be a joint meeting, but the Commission could choose from the members based on leadership's opinion. If we pass this bill out as amended, then we can get further direction from leadership. Let us have Senator McGinness convey Senator Washington's wishes on this amendment.

SENATOR MCGINNESS:  
He just asked me make sure the amendment was presented to the Committee. I will make a motion.

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SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 492.

SENATOR CARE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR COFFIN:

I will close the work session on A.B. 492 and open the work session on  
Assembly Bill 267.

**ASSEMBLY BILL 267 1st Reprint:** Requires certain golf courses assessed as  
open-space real property to be designated as open-space real property  
under applicable zoning ordinances. (BDR 32-640)

MR. REEL:

This bill requires that real property receiving an open-space deferral as a golf  
course be designated by a local government under any applicable zoning  
ordinance as open-space real property, unless the property is located in a  
common-interest community or a planned-unit development or is operating in  
conjunction with an adjacent resort hotel. The bill also requires any local  
government whose zoning does not comply with these provisions to take such  
actions as necessary to conform to the zoning requirements as soon as practical  
after the effective date of the bill.

SENATOR CARLTON MOVED TO DO PASS A.B. 267.

SENATOR SCHNEIDER SECONDED THE MOTION.

SENATOR CARE:

We are just looking at the bill with first reprint with no amendments?

CHAIR COFFIN:

Yes.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR COFFIN:

I will close the work session on A.B. 267 and open the work session on A.B. 205.

[ASSEMBLY BILL 205 \(1st Reprint\)](#): Makes various changes relating to the administration of property taxes. (BDR 32-703)

MR. REEL:

The assessors had technical additions to the provisions of statute that affect the assessors. The main portion of A.B. 205 revises the formula for calculating the partial abatement applicable to properties where the taxable values have been reduced as partial or complete destruction or removal of an improvement to the property or the correction of an overassessment of an improvement due to a factual error. The bill would also allow the county assessor to use final plans or drawings regarding an improvement that had been prepared by an architect or a builder to establish certain size, quantity and the determination of replacement costs of that improvement for establishing its taxable value. It would also create a penalty for removing, defacing, covering or concealing the notice of seizure of personal property. It would also revise criteria with certain unpaid personal property taxes deemed uncollectible. The other revision removes the sunset date for the 2-percent commission retained by the county assessors for the acquisition and improvement of technology and extends the authorization to keep the commission until June 30, 2011.

During the hearing, we had testimony from the Department of Taxation that wanted a correction to a technical error in the drafting of a previous amendment. In the mock-up ([Exhibit D](#), original is on file in the Research Library), section 1 and section 8 reflect the amendments by the Department of Taxation. Section 1 adds back into the statutes "by the Department," which allows the Department to continue to make projections of assessed value and no longer requires this be done pursuant to Chapter 361.390 of the *Nevada Revised Statute* (NRS). The amendment to section 8 is changing NRS 361.390 to clarify a portion of section 1 that the county assessor will provide the projections of assessed value to the Department of Taxation.

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The Southern Nevada Water Authority provisions start in section 16, page 23 of [Exhibit D](#). The Water Authority presented an amendment that would provide some relief to land owners who lease property to the Southern Nevada Water Authority to maintain their tax status. In discussion with Legal Division, we found the original amendment was deemed unconstitutional, so Legal has furnished an alternative amendment that would allow that property to be identified as open space. The provisions of section 16 through section 20 would allow leased property that was previously agricultural land to be deemed as open space.

CHAIR COFFIN:

There were questions from the Committee about who owned the land along the Virgin and Muddy Rivers. We received the list of property owners ([Exhibit E](#)).

SENATOR MCGINNESS:

My concern was that once a farmer or rancher leased his water to the Southern Nevada Water Authority, it would not jeopardize the ownership of the water rights or the use of the water.

BRENDA ERDOES (Legislative Counsel):

It would not jeopardize the down-the-line ownership.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 205 BY ELIMINATING SECTIONS 16 THROUGH 21 OF THE FIRST  
REPRINT AND AMENDMENTS CONTAINED AS NECESSARY IN  
SECTIONS 22 THROUGH 26 IN THE FIRST REPRINT.

CHAIR COFFIN:

That would be the language of the amendment from the Water Authority.

SENATOR CARE:

No, I am talking about deleting the leading language from the bill in the first reprint, adopting none of the amendments but just deleting sections 16 through 21 of the bill which requires us to amend sections 22 through 26 consistent with those deletions.

CHAIR COFFIN:

Your motion would effectively take us back to the original version of the bill.

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SENATOR CARE:

It would be the first reprint of the bill, with the deletions.

CHAIR COFFIN:

No amendments?

SENATOR CARE:

I am talking about the first reprint of the bill with none of the amendments proposed at our hearing. Take the first reprint of A.B. 205, delete sections 16 through 21, and then amend sections 22 through 26 to be consistent with the deletions in sections 16 through 21. Sections 22 through 26 go to when certain sections of the bill become effective.

CHAIR COFFIN:

Do we have a second to that motion?

SENATOR CARE:

The motion is to look at the first reprint and only the first reprint. I am talking about not disturbing sections 1 through 15 of the first reprint, but taking away sections 16 through 21. That would be the motion.

SENATOR MCGINNESS:

What does this accomplish?

CHAIR COFFIN:

It takes away all of the amendments proposed by the Southern Nevada Water Authority and the Department of Taxation.

SENATOR CARE:

It would remove all of the open-space language contained in the first reprint.

CHAIR COFFIN:

That is the golf course portion?

SENATOR CARE:

Correct.

SENATOR MCGINNESS SECONDED THE MOTION.

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CHAIR COFFIN:  
Do we have a vote?

THE MOTION FAILED. (SENATORS CARLTON, COFFIN, McGINNESS  
AND SCHNEIDER VOTED NO.)

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CHAIR COFFIN:  
Do we have a motion on the mock-up bill?

SENATOR CARLTON MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 205.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR CARE VOTED NO.)

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CHAIR COFFIN:  
I will close the work session on A.B. 205 and open the hearing on A.B. 235.

[ASSEMBLY BILL 235 \(1st Reprint\)](#): Makes various changes to provisions  
governing the taxation of certain fuels and special fuels. (BDR 32-897)

CHAIR COFFIN:  
Assembly Bill 235 was presented to us as a bill to stop tax evasion, which is occurring by people bringing in fuels in tank cars without paying the taxes. Assemblyman Joe Hardy brings this bill, which has broad support. There have been discussions on possible amendments, so we held the bill. We had Senate Bill (S.B.) 201, which passed this Committee. Senate Bill 201 was the Washoe County Ballot Question No. RTC-5 bill. We heard the Governor was going to veto the bill, and today the bill passed the Assembly, still not amended. Senate leadership has requested that we amend that bill into A.B. 235. The additional amendments deal with the tax on diesel and special fuels, taking away the tax increase on light vehicles, creating the structure for all the counties in the State of Nevada, with voter approval, to index rates. It would

create a mechanism which could be a middle ground between weight distance on how to tax fuels and the current system which is not working.

**SENATE BILL 201**: Authorizes certain counties to impose additional taxes on fuels for motor vehicles. (BDR 32-233)

STEVE HOLLOWAY (Executive Vice President, Associated General Contractors, Las Vegas Chapter):

We support these amendments. The construction industry, which will pay a significant portion of the increased 7 cents in tax for diesel fuel, supports the increase. The money will go to highway funding which is desperately needed as we have estimated a \$6 billion deficit in highway funding over the next ten years.

JOHN MADOLE (Executive Director, The Associated General Contractors of America, Nevada Chapter):

We support these amendments. We have been involved in the passage of the advisory question on S.B. 201—RTC-5 as it appeared on the ballot in Washoe County last November. This would allow other counties to have a funding mechanism to allow a gasoline and diesel increase in their counties. The 7-cent increase on the diesel would give a mechanism to recover the lost purchasing power from the 18 years since the State has done anything to increase highway funding. If you delay the maintenance of roads, the price of maintenance skyrockets and becomes a de facto tax increase. If we delay long enough fixing the roads, when the roads fall apart, people will no longer argue about the cost of repair. It is appropriate to increase the diesel tax because the same truck traveling in California pays substantially more per mile for diesel tax than in Nevada. We are missing millions of dollars that could be collected on these trucks. The people we represent, who own hundreds of trucks and will be substantially impacted, are saying it costs \$2 a minute to tie up a truck in traffic. They are willing to pay a few pennies on a gallon of diesel and increase the efficiency of transporting that truck from point A to point B.

PETER KRUEGER (Nevada Petroleum Marketers and Convenience Store Association):

We have been neutral on S.B. 201 and remain that way. Including S.B. 201 in A.B. 235 is fine; the essential part of the original A.B. 235 needs to pass. The diesel rate in Washoe County will go to 9 cents a gallon with the 7-cent increase. I have a question on the policy decision as to why not include



gasoline? In 1991, my Association and others supported a 5-cent increase in gasoline and diesel. It is unfortunate that we have had to wait all these years to increase the rate. If the Committee is going to process the 7-cent increase, please consider a phase-in, because a 7-cent hit on top of the 2 cents in Washoe County is huge. I do not understand why we are not including gasoline. There are many more cars than trucks on the road. We have no problem that other counties could adopt the Producer Price Index (PPI), which is indexing. Does this include State indexing? Is this the PPI portion that allows—with the vote of the people—other counties to include indexing?

CHAIR COFFIN:

As far as I know, it would require a vote of the people in each county. Ms. Erdoes can answer the question as the drafter of the bill.

MS. ERDOES:

If I understand the question correctly, the answer is that each of the counties would be allowed to pass the indexing for the 7 cents on special fuel excepting part in place for Washoe County.

MR. KRUEGER:

Yes. That is what I was trying to get at because I was not clear. The 7 cents would be indexed across the whole State, and we would support that portion. If the Committee makes the policy decision to go with the 7 cents, then I would ask that you consider a phase-in that would work this fiscal year. Assembly Bill 235 needs to pass as originally drafted. We are neutral on including S.B. 201 and will fight that battle in front of the County Commission, but the 7-cent phase-in needs to be considered, and the inclusion of gasoline needs to be considered as well.

SENATOR CARLTON:

I understand your concerns, Mr. Krueger. A 1-cent increase in diesel generates over \$3 million; 1 cent in gasoline, \$12 million. So when you talk about diesel going up 7 cents, when you do the math, that would be like 2 cents. It is not fair to compare pennies for pennies when that penny generates a different dollar amount. To make it clear: the 1 cent is the \$3.5 million, and 1 cent in gasoline is about \$12 million.

MR. KRUEGER:

I was not suggesting to the Committee that gasoline go up 7 cents, but I would ask the Committee to consider a gasoline tax. To wait another nine years would be a mistake. A 1-cent increase would be a more equitable way for our citizens to support the increase. I cannot imagine a citizen being upset with a penny or two on gas taxes, considering the support for RTC-5 in Washoe County.

CHAIR COFFIN:

We should consider your suggestion of a phase-in.

TRAY ABNEY, Director, Government Relations, Reno-Sparks Chamber of Commerce):

I am not familiar with A.B. 235, but I am familiar with S.B. 201, and the Chamber supported that bill. We are disappointed the Governor decided to veto the bill, and we told him so. If we can get S.B. 201 through, we would support that action. We do not support single-industry taxation. If this body decides we need to put more toward roads, then everybody who uses the roads should pay the tax. This amendment that focuses on diesel fuel is focusing on a single industry, and we oppose it.

PAUL J. ENOS (CEO, Nevada Motor Transport Association):

We do support A.B. 235 in its current form and oppose the 7-cent tax increase only on diesel. We believe 7 cents at this point will be difficult for the trucking industry. This industry has experienced a rapid decline over the past year because starting this last spring, it put a hardship on the industry when fuel taxes increased and peaked last summer at \$5 for a gallon of diesel. Many companies went out of business and unfortunately, they have not come back. Everybody is having a difficult time, and we are not shipping freight like we have in the past. There are fewer trucks on the road. Singling out an industry is what we oppose. We want a broad-based and stable tax system, but going after diesel is not the answer. The numbers I have reviewed show diesel usage is down 40 million gallons, so this is not the most stable form of revenue. Gasoline, as stated, brings in \$12 million as compared to \$3.5 million for diesel. This could be spread across the base, and my Association would possibly support that type of action. I would like to work with the author of this amendment and work out something more broad-based and predictable. Mr. Chair, I oppose the amendment to A.B. 235 but support it in its original form.

CHAIR COFFIN:

The Department of Motor Vehicles form shows tax rates across the states, so what is California's current tax rate?

MR. ENOS:

The state tax that goes into the highway fund is 18 cents, but they also have sales tax in that as well. Every year they report the average price of diesel fuel, and in 2008, it was 43 cents. We are at 27.8 cents.

SENATOR CARE:

Section 13.5 of the mock-up has the increase on special fuels, which includes diesel. In section 8.7 is the refund is for vehicles with a gross weight of less than 8,500 pounds. We will need testimony to explain what that means.

MR. ENOS:

There are trucks that would exceed that weight, especially larger pickups.

SENATOR CARE:

That would include some pickups on diesel. Sections 1 through 23 are the original bill. What is the price of diesel compared to the price of all grades of gasoline?

MR. ENOS:

The price of diesel is about the same as premium fuel.

SENATOR CARE:

Is it consistently a little higher or lower than gasoline?

MR. ENOS:

In recent history, the price of diesel is higher.

SENATOR CARE:

Looking at the NRS 366.200, a couple of Attorney General Opinions from 1955 and 1999 talk about buying diesel for consumption off the highway. Maybe Ms. Erdoes could explain.

MS. ERDOES:

They are going to the fact that just because it says these users are exempt does not mean you do not have to pay this tax. Are you tying the question to what is happening with the refund in the bill?

SENATOR CARE:

I was talking about the 1955 opinion that would suggest it is exempted if you are using it for other than road use.

MR. ENOS:

There are trucks that have multiple uses, such as a crane or cement mixer. The cement mixer would be used for both mixing and running the engine. It has power takeoff, and a percentage of the fuel is assigned to the power takeoff to run the primary operation. For mixing the cement, the cement mixer would get a 30-percent rebate.

CHAIR COFFIN:

When we added the amendment, I suggested we add a method for exempting people who are driving lightweight cars that do not damage the roads. The old method we used was to pay the tax in the beginning and then file for the rebate.

MR. ENOS:

I would caution that we do have an agreement through the International Fuel Tax Agreement (IFTA). I am sure Ms. Erdoes has vetted this with IFTA and that it would comply with IFTA.

CHAIR COFFIN:

The Department of Taxation would have to draw up regulations and the forms to make sure we are congruent with the federal agreements.

SENATOR SCHNEIDER:

When was the last time diesel fuel increased?

MR. ENOS:

Diesel increased at the same time as gasoline, in 1992.

SENATOR SCHNEIDER:

What has been the inflation rate in the last 17 years?

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MR. ENOS:

I am not prepared to answer the question.

SENATOR SCHNEIDER:

We should have a gas tax as well. We are out of money, and we have been fiscally irresponsible the last 17 years. We have not kept up with the new trends, so our transportation fund is empty. The oil companies manipulate the price of fuel. Now it is down, and they will start to increase with summer approaching.

SENATOR CARE:

Since the last fuel increase, inflation has increased roughly 64 percent.

CHAIR COFFIN:

That would be 64 percent on 27 cents.

RAY BACON (Nevada Manufacturers Association):

We are in support of Mr. Enos's position. Since 2002, we have been adamant about avoiding industry-specific taxes. This is covering two industries and still is an industry-specific tax. When talking about \$3 million for a penny of diesel fuel and \$12 million for a penny of gasoline, 2 cents will produce \$30 million if you do everything, yet 7 cents will produce \$21 million. If we are realistic, the broader-based tax and lower rate will be a better solution. We support the broader-based, lower tax rate.

JOSH GRIFFIN (Biodiesel of Las Vegas, Inc.):

Petroleum diesel and biodiesel are taxed at 27 cents. Does this bill only apply to the petroleum diesel? If these two fuels are statutorily linked, would this Committee consider keeping biodiesel at its current tax rate?

CHAIR COFFIN:

There was discussion on biodiesel by the Committee. Ms. Erdoes will explain that section of the bill.

MS. ERDOES:

The special fuel includes both biodiesel and diesel.

MR. GRIFFIN:

I would suggest the Committee to keep biodiesel at the current rate of 27 cents. Keeping it at the current rate helps Nevada companies to manufacture a product that is becoming increasingly required through federal requirements.

SENATOR SCHNEIDER:

I would support holding the biodiesel at its current rate. We are trying to encourage these plants to build, and this fuel is greener. A bill passed out of the Assembly that would create a fund to do research on biofuels. The federal government is supporting the creation of biofuel and could provide partial funding for the research.

SENATOR CARLTON:

When I was making the remarks and comparing the prices, I was not proposing that we raise the gasoline tax. I was trying to make the point that it takes 3 cents to 3.5 cents of diesel to equal 1 cent of gasoline. I also support the exemption of biodiesel. I still have a concern in section 8.7. How much does a Hummer weigh? I have concerns for the rebate on smaller cars, but that would not cause me to not support the bill.

SENATOR MCGINNESS:

I have the same concerns voiced by Senator Carlton because I can see when we capture the smaller trucks, the paperwork is going to be difficult. I am concerned about the amount of revenue we are taking out of the State's economy. This is not going to help.

CHAIR COFFIN:

I will close the hearing on A.B. 235 and open the work session on A.B. 235.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 235, KEEPING BIODIESEL AT THE CURRENT 27 CENTS AND  
INCREASING THE DIESEL TAX.

CHAIR COFFIN:

Your motion would be to amend A.B. 235 with the mock-up, but amend the mock-up to remove biodiesel. Do we have a second?

SENATOR CARE:

Is there a statutory definition of special fuel that specifically mentions biodiesel?

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MS. ERDOES:

There is a definition of special fuel, which is NRS 366.060. What was the rest of the question?

SENATOR CARE:

Does the definition specifically include biodiesel?

MS. ERDOES:

It does not have the term "biodiesel" but says, "Combustible gas or liquid ... ." it does not talk about the exact fuel.

SENATOR CARE:

There is a definition for special fuel manufacturer in the mock-up, and it includes biodiesel.

MS. ERDOES:

Unless you specifically do something else the definitions apply unless as how they will be codified in NRS. The definition of special fuel says "including an emulsion of water-phased hydrocarbon fuel." I do not know if that is biodiesel.

SENATOR SCHNEIDER:

The federal Renewable Fuel Standard of the Clean Air Act of 2005 requires the blending of renewable fuels, which would be made from plant and animal products or waste rather than fossil fuels. This is blended with diesel to reduce the carbon footprint.

SENATOR CARLTON SECONDED THE MOTION.

SENATOR CARE:

I do not like legislating at the last minute. I will vote for it, to keep it alive, but there are real problems with this bill. Where did the 7 cents come from? Why not 5 or 17? The 8,500—where did it come from?

THE MOTION PASSED. (SENATOR MCGINNESS VOTED NO.)

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CHAIR COFFIN:

I will close the work session on A.B. 235 and close the meeting of the Senate Committee on Taxation at 8:50 p.m.

RESPECTFULLY SUBMITTED:

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Mike Wiley,  
Committee Secretary

APPROVED BY:

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Senator Bob Coffin, Chair

DATE: \_\_\_\_\_