

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fifth Session
March 26, 2009**

The Senate Committee on Taxation was called to order by Chair Bob Coffin at 1:33 p.m. on Thursday, March 26, 2009, 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 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 Randolph Townsend
Senator Mike McGinness
Senator Maurice E. Washington

GUEST LEGISLATORS PRESENT:

Senator Mark E. Amodei, Capital Senatorial District

STAFF MEMBERS PRESENT:

Russell J. Guindon, Senior Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Mike Wiley, Committee Secretary

OTHERS PRESENT:

Derek W. Morse, Interim Executive Director, Regional Transportation Commission
John O. Swendseid, Regional Transportation Commission, Washoe County
Robert Cashell, Mayor, City of Reno
Geno R. Martini, Mayor, City of Sparks
John Breternitz, Board of Commissioners, District 1, Washoe County

Senate Committee on Taxation
March 26, 2009
Page 2

Dave Aiazzi, Council Member, Ward 5, City of Reno
Norman L. Dianda, President, Q & D Construction, Inc.
Perry M. Di Loreto, Manager, Nevada Tri Partners, LLC
Richard Daly, Business Manager, Laborers' International Union of North America, Local Union 169
Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce
David Howard, National Association of Industrial and Office Properties, Northern Nevada Chapter
Paul J. Enos, CEO, Nevada Motor Transport Association
Peter D. Krueger, Nevada Petroleum Marketers and Convenience Store Association, LLC
John S. Durkin, Nevada Petroleum Marketers and Convenience Store Association, LLC
Kimberly Rhodemyre
Rhonda Bavaro, Administrator, Motor Carrier Division, Department of Motor Vehicles
Dawn Lietz, Supervising Auditor, Motor Carrier Division, Department of Motor Vehicles
Lesley Pittman, Nevada Rental Car Group
Maria Romano, President, United States Rent A Car, Inc.
Robert Dau, Payless Car Rental
Robert A. Ostrovsky, Hertz Corporation
Edward Allison, Avis-Budget
Dino DiCianno, Executive Director, Department of Taxation
Brett Carter, Nevada Justice Association

SENATOR COFFIN:

We open the hearing on Senate Bill (S.B.) 201.

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

SENATOR MARK E. AMODEI (Capital Senatorial District):

Senate Bill 201 is the legislation that went with the Regional Transportation Commission (RTC) RTC-5 ballot question in Washoe County. The bill is the work product that represents RTC-5. It is an example of an existing taxation mechanism that we earmarked, and the application was voted on by the entire jurisdiction. This is an example of Washoe County taking care of its

infrastructure problems by going to the voters to start creating jobs in Washoe County.

DEREK W. MORSE: (Interim Executive Director, Regional Transportation Commission):

As part of the RTC ongoing transportation planning efforts, we identified a \$4.8 billion shortfall ([Exhibit C](#)). To address this shortfall issue, the RTC Board created a Blue Ribbon Committee of 30 or more community leaders and gave them a mission to review the numbers and, if they were convinced the numbers were correct, make recommendations on how to address the shortfall. The Committee worked from February to May 2008 and concluded the numbers were correct. The failure to address the shortfalls will have substantial negative impacts on the quality of life in the community. It would mean more congestion and poor air quality, and it would affect businesses' ability to be competitive and create jobs.

The last fact is that 60 percent of the \$4.8 billion shortfall was created by the loss of purchasing power on current revenue streams caused by inflation and the cost of road construction. The problem is getting worse and will become harder to solve over time. As a first step, the recommendation from the RTC Committee was to propose to the public a proposition to annually adjust indexing all gas and special fuel taxes, including diesel, within Washoe County to recover the lost purchasing power. The adjustments would be made using the Producer Price Index (PPI) for the Highway and Street Construction Industry. The RTC board accepted these recommendations and asked the Washoe County Commission to put this question on the ballot, which was designated as RTC-5.

We explained the costs involved to the public. If the public wanted to move in this direction, for the first year it would add 2 cents per gallon for gasoline and 2.5 cents per gallon for diesel. Adjustments would be made in the following years to capture the purchasing power lost to inflation. The voters were also told about the benefits that would capture an estimated \$2.6 billion in lost purchasing power over the next 30 years. The money would be invested in the community in vital congestion relief projects and system preservation. Additionally, RTC would bond \$259 million in the first three years to put people back to work and stimulate the local economy. In November 2008, voters passed RTC-5 by a margin of 55 percent.

The RTC-5 was an advisory question, so we are asking the Legislature to pass S.B. 201. Senate Bill 201 would authorize the Washoe County Commission to enact indexing to recover the purchasing power lost for taxes paid on motor fuels, gasoline, special fuels including diesel, and the cost of street and highway construction. The newly indexed fuel taxes would be local fuel taxes collected and spent in Washoe County. The adjustment, in the future, would be made on a rolling ten-year average of the PPI for the Street and Highway Construction Industry. The maximum adjustment in any one year would be 7.8 percent. The bill specifies how the annual rates would be calculated, how the tax proceeds are to be distributed, and how they are to be spent. Prior to each annual increase, the RTC will hold public hearings to review the amount of the proposed increase for the upcoming fiscal year (FY), amounts of previous increases, revenue collected from these taxes and improvements to the regional transportation system made from the funds collected. The legislation requires the RTC to transmit information to the Board of Commissioners with any additional material that indicates the annual increases should be adjusted. The Board of Commissioners has the power to make adjustments to the increases. Indexing would only take place in Washoe County. Provisions in the bill clarify existing language on bond sales.

CHAIR COFFIN:

You stated the estimated \$5 billion to \$6 billion shortfall was based on 30 years?

MR. MORSE:

That is correct.

CHAIR COFFIN:

Have you worked with Nevada Department of Transportation (NDOT) on their projection for the amount necessary for roads in Washoe County?

MR. MORSE:

We provided NDOT with all the information; it is part of the Regional Transportation Plan. The NDOT has been updating their numbers with our updated numbers in order to revise their estimates. We have provided a large amount of detail on specific items that need to be completed in Washoe County.

CHAIR COFFIN:

Do you realize the State Highway Fund is out of money and dipping into its reserves at levels never seen before? There will be discussions about tax money for NDOT projects. Do you have in mind adjusting the total cost for Washoe County into the State?

MR. MORSE:

First of all, this will solve half of our problem; secondly, a large portion of this money will be spent on the NDOT system.

SENATOR CARE:

Were there any legal challenges on the ballot question?

MR. MORSE:

There were no legal challenges.

SENATOR CARE:

Did anybody try to keep it off the ballot?

MR. MORSE:

No.

SENATOR CARE:

The explanation does not explain for how long and how much. Would you explain the efforts made to inform the voters on those issues and others associated with the ballot question?

MR. MORSE:

We had an extensive public education campaign. I did more than 60 presentations, some of which were neighborhood advisory boards, citizen advisory boards and service groups. We explained the \$4.8 billion shortfall and how much is lost through inflation—those estimates were based on historical data. If we project the historical data into the future, it will be somewhat similar to the past in terms of overall inflation. We explained the first-year adjustment would be about 2 cents a gallon more. Each additional year, if inflation continued, would show similar increases.

SENATOR CARE:

Were the explanation and the opposition's rebuttal in the sample ballot the voters received?

MR. MORSE:

It is by law.

SENATOR CARE:

Nobody has approached me on this issue, but I have received e-mails that the ballot question is in opposition to federal regulations in that the voters were misled. Would you give your explanation?

MR. MORSE:

The statements are made out of confusion because we are trying to recapture the purchasing power on all fuel taxes paid by the citizens of Washoe County, which includes taxes paid at the federal and State level. The mechanism for doing this is not an increase in federal or State tax; it is simply a local fuel tax. Nobody has raised this issue or provided information that would indicate any violation of laws. We are not increasing federal or State fuel taxes; we are creating local fuel taxes.

SENATOR CARE:

Has the Governor indicated he is going to sign this if we pass it?

MR. MORSE:

We have had discussion with the Governor's staff and received assurances that because there was a vote of the people, there would be no problem with the Governor signing S.B. 201.

SENATOR CARLTON:

Has anyone looked at what the County might receive through the stimulus package by leveraging the dollars you will receive through this fuel tax?

MR. MORSE:

The total highway stimulus package coming to Washoe County is \$27.6 million. With our bonding program, we will do three times that the first, second and third year. We have an ongoing pay-as-you-go program following the first three years. The federal money has been targeted for the Meadowood Interchange Complex. The total amount for taking this project to construction is

\$50 million. With \$27.6 million coming from the stimulus package, the balance will be coming out of the bond proceeds.

CHAIR COFFIN:

Mr. Swendseid, as an attorney, do you have anything to add? Are there any problems with advisory ballot?

JOHN O. SWENDSEID (Regional Transportation Commission, Washoe County):

We have looked at the question and explanation, and we were satisfied they met the requirements of Nevada law for an advisory ballot. An advisory question cannot violate federal law, it is just advisory. We are seeking the legislation to implement it. We have looked at whether the legislation violates any provisions of federal law—it does not. The bill allows Washoe County to increase its local fuel taxes by a number that represents an inflationary adjustment to various fuel taxes. This does not increase a federal tax; it just imposes a local tax whose rate is partially based on the rate of the federal tax. We do not think that violates any provision of federal law.

CHAIR COFFIN:

Explain section 20 of S.B. 201, “approval by the voters ... shall be deemed to constitute approval by the voters” Is that stronger than an advisory question?

MR. SWENDSEID:

This is the traditional way the Legislature has chosen to implement advisory questions that are purely advisory. When the Legislature adopts legislation, it says that you can impose these taxes only if you have the vote of the people. If the vote was held before the legislation was adopted, the Legislature uses the language “adoption of the advisory question by the voters in a particular jurisdiction shall be deemed to have satisfied this bill’s requirement for a vote.” This bill was not before the voters. Mr. Morse testified as to what was before the voters, which is the way the Legislature has implemented advisory questions.

ROBERT CASHELL (Mayor, City of Reno):

Our citizens voted for this initiative. They wanted it and were given the facts concerning RTC-5. The voters were not misled, so I am urging you to pass S.B. 201 so we can float the bond and get people back to work.

CHAIR COFFIN:

What will these tax increases do to consumption?

MAYOR CASHELL:

It will not do anything, especially considering what California is doing, because a lot of truckers come into Nevada to fuel their trucks.

SENATOR COFFIN:

What room will there be for the State if enacted?

MAYOR CASHELL:

There is room for the State because I thought the State should have moved on fuel tax a long time ago.

CHAIR COFFIN:

That is important to know because you heard my comments on the state of the State Highway Fund.

MAYOR CASHELL:

What we are asking for will not hurt the State tax, especially with what California is doing.

GENO R. MARTINI (Mayor, City of Sparks):

The City of Sparks needs this legislation because it solves our second-worst traffic problem, which is Vista Boulevard. Our citizens fully support this legislation, and we urge you to pass it.

JOHN BRETERNITZ (Board of Commissioners, District 1, Washoe County):

This enabling legislation is strongly supported by people in Washoe County. It was passed by a 55-percent margin, and in my mind, it is a local stimulus. There are a number of positive benefits to this legislation—the economic development aspects—because one of the key areas for bringing new business to the County is in improving our road system, which will allow us to market the area more positively. The money will also benefit the area because it is generated in Washoe County and will stay. It will generate 3,000 well-paying jobs. The construction industry is the driver of revenues in northern Nevada, and getting people back to work will generate taxes. I urge you to pass this bill.

DAVID AIAZZI (Council Member, Ward 5, City of Reno):

As chairman of RTC, I would like to point out RTC had another question on the ballot, RTC-3 which was to provide for transit. I am tying these together with the education of the public. When we went out into the community, we talked about RTC-5 and RTC-3, and the voters voted down RTC-3. The voters analyzed what they wanted, knew what they were voting for and chose RTC-5. Some opposition is coming from people who do not want a road, and they are trying to find reasons because they think this funding source will provide the road.

SENATOR CARE:

Was there a measure in Washoe County dealing with an increase in the sales tax for the remodeling of schools?

MR. AIAZZI:

That is correct. It also failed.

SENATOR CARE:

Can you give us a list of what passed and did not pass?

MR. AIAZZI:

The RTC-5 was the only one that passed in Washoe County.

SENATOR CARE:

The school construction sales tax received some publicity in Clark County, was that primarily it?

MR. AIAZZI:

Those were primary.

NORMAN L. DIANDA (President, Q & D Construction, Inc.)

I served as Chair on a Blue Ribbon Task Force called Roads to the Future. This legislation is important to our community in a number of ways. In 2006, I employed 1,152 people, 850 in 2007, 700 in 2008 and today I employ 480. The importance of this project is in providing 3,000-plus jobs continually over the next coming years. The jobs are important with this economy, and nothing will start it better than infrastructure. These dollars are going to provide value; the value with these dollars will keep our infrastructure for maintenance, repair and new construction within the community for the roads. We cannot let our

roads deteriorate, so the money will be well spent and provide well-paying jobs. I had a conversation with the Governor, and he said if the citizens pass this bill, he would sign it. Senate Bill 201 will stimulate the economy because Mr. Morse has projects that will be out in the next 60 days.

PERRY M. DI LORETO (Manager, Nevada Tri Partners, LLC):

I served on both committees that studied issues for the ballot questions last November. I was on the school commission and the committee that studied this issue. The process on both issues was exemplary, and there was a thorough examination of the issues by a cross section of the community. Business, labor and education leaders made their case to the voters—the voters made a choice. In the case of the Washoe County School District, they said no; in the case of the transportation tax, they said yes. Fuel tax is becoming a victim of more efficient cars and a change of driving habits. The revenue is losing out to the greener side which has equal efforts toward fuel-efficient cars and use of mass transportation. Washoe County is not using more fuel in gallons, by which the fuel tax is assessed, than five years ago. This is not a job-stimulus program. These are good, durable, hard community assets that will belong to the community for years to come. I strongly urge you to pass this legislation.

CHAIR COFFIN:

Why did the school issue fail?

MR. DI LORETO:

The polls had us up 8 points before the election, and we lost by 6 points. It points out the information was not forthcoming; we either asked the wrong questions or people were not telling us what we needed to hear. The community lacks outreach, amount of contact, and the trust and confidence in explaining a difficult set of interrelationships. The school board needs to get out into the community to understand people are irritated with the fact there is never enough money for education.

CHAIR COFFIN:

Was there insufficient money put behind the question?

MR. DI LORETO:

We raised quite a bit of money. We had a great Website. Teacher unions and school administrators were involved, and I was surprised it did not pass.

RICHARD DALY (Business Manager, Laborers' International Union of North America, Local Union 169):

I support S.B. 201. I was part of the RTC Committee, spending several months working and looking at the issues. We all agreed to move forward with the ballot question, and the voters supported the prospect of fixing the traffic and building the infrastructure that impacted their quality of life. There were no earmarks; they were priority projects which the voters approved. This legislation is enabling—no taxes are going to increase by allowing Washoe County Commission to raise taxes the voters approved. The external benefit is we put people to work and put dollars into the system that will build the roads. We recommend S.B. 201 pass out of this Committee, the Senate, the Assembly and have the Governor sign.

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

We are in strong support of S.B. 201, just as we were for the ballot question approved by the voters in November 2008. If passed, this will create 3,000 jobs in Washoe County. Additionally, it will not only be engineers and construction workers who benefit from this bill, it will be all members who sell goods and services to the 3,000 workers. It is an economic development tool because employers want to move their goods and employees around this region. Our transportation is a quality-of-life issue.

CHAIR COFFIN:

Was the Reno-Sparks Chamber of Commerce heavily engaged on the education program?

MR. ABNEY:

We were supporters of the WCSD-1 ballot question for the Washoe County School District. The largest contributions went to the education question.

DAVID HOWARD (National Association of Industrial and Office Properties, Northern Nevada Chapter):

We support S.B. 201. We need what S.B. 201 will provide for our industrial and commercial building needs.

SENATOR CARE:

This bill as drafted would become effective on passage and approval. How do you see this unfolding?

MR. DALY:

It will go to the County Commission, which has passed a measure that would allow the selling of bonds to start immediately, so we can start the projects.

SENATOR CARE:

It would go before the County Commission?

MR. MORSE:

If we proceed and get the legislation passed, it will be July 2009 before we can sell bonds. The County Commissioners are allowing us to move forward and bond on our existing revenue streams, allowing us to start eight weeks sooner than the enabling legislation out of the Legislature. There is some risk, but the Board of Commissioners is willing to accept the risk because of the benefits of starting early. The Board of Commissioners has already approved starting work on the designs to get projects that would be funded by this ready to start.

CHAIR COFFIN:

The consistent increase of gas taxes—whether it is indexed or by a vote—to raise the percent per gallon has got to stop eventually.

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

We identified concerns regarding the International Fuel Tax Agreement (IFTA), which is a federal law. We worked with the sponsor of the bill, Mr. Morse, RTC and the Department of Motor Vehicles (DMV), to craft the bill, insuring no IFTA implications. Under federal law, you cannot have a local diesel use tax. The reason we are testifying neutral is because of tax avoidance issues when there is an index in one county. Concerns we had with the language of the bill have been addressed.

RUSSELL J. GUINDON (Senior Deputy Fiscal Analyst):

I would concur with Mr. Enos and the comments from Mr. Swendseid and others who testified the bill as drafted does not conflict with IFTA. In S.B. 201, section 8, subsection 2, the new wording has reference to Nevada Revised Statute (NRS) 366.175, which is the provision that deals with IFTA. As staff, we do not have any concerns with regard to any IFTA issues with this tax for Washoe County.

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

Our Association supports this bill because it expands financial home rule for Washoe County ([Exhibit D](#)). Washoe County has had home rule in this area with the gas tax and indexing gas taxes for a number of years. This is an excellent way to continue and expand home rule for Washoe County into diesel fuel. I have asked Mr. Durkin to demonstrate the impact of this legislation on County revenues and the cost to the public on private and commercial use of vehicles.

JOHN S. DURKIN (Nevada Petroleum Marketers and Convenience Store Association):

I have a two-page summary ([Exhibit E](#)) showing what S.B. 201 will do relative to the revenues generated from gasoline and diesel sales. Page 1 shows the basis we used, including the current taxes; usage is from DMV, and the percentages for the inflation rates are at the Consumer Price Index (CPI) cap of 4.5 percent. The five-year average is 6.2 percent, which is close to the ten-year average on the Producer Price Index (PPI). The new cap is 7.8 percent, so the 6.16 percent is the actual ten-year average on the PPI for Highway and Street Construction.

On page 2 of [Exhibit E](#), the first column shows current revenue based on the current escalation rate, current county rate and total gallons. The current tax is on gasoline because there is no diesel. In the first year of the escalation, about \$34 million would be raised under the old method. Under the new PPI, that would increase by \$400,000 to \$500,000.

The next columns show the new tax revenues by applying PPI to the State and federal gasoline tax and then the State and federal diesel tax. Instead of getting \$34 million, Washoe County will end up with \$40 million in the current year. In the fourth year, it jumps to \$48 million instead of \$38 million. The significant increases are in the first year because the new base was added using State and the federal gas tax. The legislation does not refer to them as State or federal gasoline tax but only uses the "current rate of the tax" as the base.

On the bottom of page 2, I have provided cents per gallon, which shows 21.48 cents in the fourth year of escalation using the current base and in the fourth column as 25.60 cents. The additional cost would be 3.84 cents per gallon on gasoline. Diesel starts out at zero and increases to 3.84 cents. In four years, Washoe County will have about a 4-percent-per-gallon increase.

MR. KRUEGER:

A provision of S.B. 201 states that each year the Washoe County Commissioners with RTC will have a chance to review what has been done, which is good for transparency. The idea that:

once this has started it could be stopped is absolutely, I think unfortunately, not possible. Because once you bond against the amounts that are gonna be predicated on the escalation, I just can't see any way—that if consumers, the public, times get tough or tougher—this process could ever be stopped in my lifetime, I think, is erroneous. And I would suggest that needs to be on the record.

SENATOR CARE:

On page 9, section 4, subsection 2, paragraph (b) allows the Commission to review with the public after the legislation is enacted. What would keep a new County Commission from repealing, reviewing or modifying the ordinance?

MR. MORSE:

A section in this bill says the County Commission cannot take any action that would hurt the bondholder if there are outstanding bonds. That is standard for all revenue sources that are part of NRS.

MR. SWENDSEID:

Once the bonds are issued, the Commission will not be able to repeal the tax while the bonds are outstanding. They could pay them off and then repeal the tax.

KIMBERLY RHODEMYRE:

I have prepared written testimony against S.B. 201 ([Exhibit F](#)).

CHAIR COFFIN:

How could it not be construed to have been a tax? It did say tax in the ballot question?

MS. RHODEMYRE:

There was no mention of a tax. It says "obtain necessary additional funding."

Senate Committee on Taxation
March 26, 2009
Page 15

CHAIR COFFIN:
Indexing was mentioned?

MS. RHODEMYRE:
That is the entire question. It was in the sample ballot, but the residents of Somerset did not receive their sample ballots.

CHAIR COFFIN:
Do your neighbors know that you already have indexing on your gasoline tax?

MS. RHODEMYRE:
Some do and others did not.

SENATOR CARE:
When the polls close in Clark County at 7 p.m. you can usually go online and get the first released numbers; those are the early voting tabulations. Since we went to early voting, the discrepancy between the yes and no or the for and against in early voting usually holds true for those who vote on Election Day. Could we get that information?

CHAIR COFFIN:
Staff will inquire of Washoe County election officials.

RHONDA BAVARO (Administrator, Motor Carrier Division, Department of Motor Vehicles):
I have prepared written testimony that is neutral on S.B. 201 ([Exhibit G](#)). We do have the new California tax rates.

CHAIR COFFIN:
Would you state the number in your fiscal note and make sure this fiscal note is current.

MS. BAVARO:
I had a fiscal note dated March 16 showing revenue for gasoline-gasohol additional gross tax index for FY 2009-2010 is \$2,853,219; revenue for special fuel additional gross tax is \$949,092, and revenue to the Department of Motor Vehicles for the collection of taxes is \$38,407. Our expenditures include programming—405 hours—at \$54,675, and adoption of the regulations is \$1,884.

Senate Committee on Taxation
March 26, 2009
Page 16

CHAIR COFFIN:

The State is neutral; are we short of expense money to do the work?

MS. BAVARO:

We could provide the programming if we extend the effective date on the bill to January 1, 2010.

CHAIR COFFIN:

It does not appear to be a large fiscal note.

DAWN LIETZ (Supervising Auditor, Motor Carrier Division, Department of Motor Vehicles):

Currently, California's diesel tax rate is 43.7 cents and Nevada's State tax rate is 27 cents per gallon. For gasoline figures, California is 36.26 cents and Nevada ranges from 28 to 33 cents per gallon.

MR. MORSE:

The effective date of collection cannot start before January 1, 2010. We sent a letter to the Committee that the RTC would defray the one-time DMV cost for setting up the system. There will be no one-time cost for setting up their program.

CHAIR COFFIN:

I will close the hearing on S.B. 201 and open the hearing on S.B. 234.

[SENATE BILL 234](#): Makes various changes concerning the short-term leasing of passenger cars. (BDR 43-33)

LESLEY PITTMAN (Nevada Rental Car Group):

I have prepared written testimony in support of S.B. 234 ([Exhibit H](#)).

SENATOR CARE:

Does the policy prohibit anyone under the age of 25 years from renting a car?

MARIA ROMANO (President, United States Rent A Car, Inc.):

Most rental car companies will rent to anybody who is over 21 years of age. There may be surcharges between the ages of 21 and 25. We will rent a vehicle to anybody 18 years of age or older with a government contract. Those would be the circumstances.

SENATOR CARE:

Would there be circumstances where the injured party would have the ability to go after the rental car company in addition to the driver if there is conduct by the renting agency? Would this bill take the rental car company out of liability for everything?

MS. ROMANO:

If there is negligence, we would cover the injured party.

SENATOR CARE:

Negligence, by whom?

MS. ROMANO:

It would be negligence on our renter's part or somebody who is underage. If there is no insurance involved, we would be primary.

MS. PITTMAN:

A safety net still exists for an individual who is either underinsured or uninsured. The rental car company steps in to fill the void.

SENATOR CARLTON:

You stated you would charge separate fees for licensing, titling and the requirement for disclosure. At the beginning of the statement, you stated the 4 percent is mandatory. Will this be mandatory or optional?

MS. PITTMAN:

This would be an optional vehicle fee for rental car companies to employ in their contracts.

SENATOR CARLTON:

In the context of the bill, the 6 percent will remain and the 4 percent will be an additional fee?

MS. PITTMAN:

We have 2 percent that goes to the State. This would go up to 4 percent which the State would keep, providing \$30 million in revenue on the biennium going into the General Fund. We would be allowed to charge a vehicle license fee to recover our registration and titling costs.

Senate Committee on Taxation
March 26, 2009
Page 18

SENATOR CARLTON:
How does that average?

MS. PITTMAN:
It is difficult to estimate; every rental car company has a different fleet because the age, registration and titling for each car is different.

SENATOR CARLTON:
I want to go to the next issue, minimum financial responsibility (MFR) and the stacking of coverages. When I rent a car for State business, my other job or personal business, I take the loss damage waiver (LDW) because then I am not responsible for any damage to the car. What is this other insurance all about?

MS. PITTMAN:
This is liability insurance that you would be required to have as a driver in Nevada. If someone comes in from another state who is not covered by MFR, the rental car company will be protected.

ROBERT DAU (Payless Car Rental):
That is true. We provide coverage for those who do not have coverage. If you take our coverage, you will not be responsible for any damage to our vehicle whether you are at fault or not. If a third party is insured, you are relying on your insurance to take care of that coverage. Currently, your insurance takes care of that coverage up to your financial limits, but also stacked on top of your insurance is our State MFR. If you have a policy in place to take care of the car you damaged or the person injured, we ask that we not bear the financial responsibility when you already have a policy in place.

SENATOR CARLTON:
When the rental agent asks me to purchase insurance, not the loss damage waiver, do they offer another insurance? There are multiple places to initial indicating that I do not want the additional coverage.

MR. DAU:
There will be coverage for our car, the LDW you referred to, and then there will be coverage for a third party. Most people rely on their own coverage for a third party, for those who do not carry their own. We provide third-party liability.

MS. PITTMAN:

Say you decline coverage by the rental car companies and third-party liability coverage, and you rely on your own insurance coverage. If you have an accident and are determined to be at fault, your private insurance company should cover those losses as long as they meet the minimum insurance requirements. The plaintiff's attorney would not be able to go after both your private insurer and the rental car companies.

SENATOR CARLTON:

What if there is a difference? What if the amount of the damage is more than my coverage? If I do not have the stacked insurance, the plaintiff could come after me personally because my insurance is not enough.

MR. DAU:

When you get into a case like that, we are usually talking about hundreds of thousands if not millions of dollars. The additional \$15,000 in bodily injury is not going to make the third party whole, and the plaintiff will come after you if your coverage is not sufficient. We are only responsible for State minimums. The State of Nevada decided the minimums, and we are responsible to make sure every car on the road has those minimums. We are one of four states that will stack the coverage; 92 percent of the United States decided against the stacked coverage.

SENATOR CARLTON:

Ninety-two percent of the country does not have tourists from all over the world driving on the roads of Las Vegas. My concern is tourists driving on our roads who are underinsured when they think they are covered.

MS. PITTMAN:

There is not anything in statutes that allows for this. We are so highly regulated by the State, unless something is expressly permitted in statute, we are not allowed to do anything.

SENATOR SCHNEIDER:

What are the four states that require stacked coverage?

MS. PITTMAN:

They are Nevada, Georgia, New Jersey and Vermont.

ROBERT A. OSTROVSKY (Hertz Corporation):

When renting a vehicle, you pay a daily fee, 6-percent tax, 4-percent recovery charge, other airport concessions, fees for baseball stadiums and fees for performing arts centers. We are trying to consolidate the 6 percent and 4 percent into a single 10-percent tax, all of which comes to the State. That fee for Hertz is about \$1.25 to \$1.50 a day; it would change depending on the fleet.

EDWARD ALLISON (Avis-Budget):

As a reminder, this money does stay in the State. We support this bill.

MS. ROMANO:

We support passage of this bill. As a small business owner, this really impacts my bottom line. Annually, I spend close to \$700,000 to \$800,000 in DMV fees. It would be great to recoup some of this because it goes back into our economy.

MR. DAU:

This bill is extremely important, and I urge passage of this bill.

DINO DICIANNO (Executive Director, Department of Taxation):

We provided an unsolicited fiscal note to provide information on the net increase in revenue to the General Fund and the Highway Fund. My concern is for the Department of Taxation because we will have to change our computer system if this bill is processed. The charge is \$25,000 for computer changes, and we are not budgeted for the amount.

CHAIR COFFIN:

Would you discuss forecasted revenue received from the bill?

MR. DICIANNO:

The Economic Forum forecast this revenue ([Exhibit I](#)). The number shown on the lead line of the fiscal note, with respect to the amount of revenue that would go to the General Fund into the Highway Fund, is an accumulative amount based upon the original forecast from the Economic Forum.

CHAIR COFFIN:

Mr. DiCianno will need approval from the Senate Finance Committee and Assembly Ways and Means Committee for his budget to receive this money.

Senate Committee on Taxation
March 26, 2009
Page 21

MR. DICIANNO:
That is our cost.

BRET T. CARTER (Nevada Justice Association):
I have written testimony on S.B. 201 in opposition to sections 5 through 7 of S.B. 201 ([Exhibit J](#)).

SENATOR CARLTON:
In every other case in the State, the insurance follows the car; in this case, the insurance would follow the person rather than the vehicle. The insurance on the vehicle that the short-term lessor has would not apply any longer. This proposal seems contrary to the way car insurance is dealt with in the general policy of the State.

MR. CARTER:
That is true. If a permissive user uses the vehicle, the injured party would be afforded the insurance that is on the car as well as the insurance available to the person operating the car.

CHAIR COFFIN:
Car insurance follows both the individual and vehicle because if you are driving another vehicle, your insurance will cover you on the liability.

Senate Committee on Taxation
March 26, 2009
Page 22

The hearing is closed on S.B. 234 and the meeting of the Senate Committee on Taxation is adjourned at 3:42 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

Senator Bob Coffin, Chair

DATE: _____