MINUTES OF THE
SENATE COMMITTEE ON TAXATION

Seventy-fifth Session
April 9, 2009

The Senate Committee on Taxation was called to order by Chair Bob Coffin at 12:42 p.m. on Thursday, April 9, 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 John J. Lee, Clark County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Russell J. Guindon, Senior Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Brenda Erdoes, Legislative Counsel
Mike Wiley, Committee Secretary

OTHERS PRESENT:

Dino DiCianno, Executive Director, Department of Taxation
Alfredo Alonso, Ausra Solar Incorporated; Large-scale Solar Association
Peter Ernaut, BrightSource Energy
Michael Alastuey, Director of Public Policy and Analysis, Applied Analysis

Deborah H. Teske, Community Development Specialist, Lander County; Lander Economic Development Authority
Kyle Davis, Policy Director, Nevada Conservation League
Joe Johnson, Sierra Club
Tim Rubald, Rubald and Associates
Annie Carmichael, Federal Policy Director, Vote Solar Initiative
Charles Benjamin, Director, Nevada Office, Western Resource Advocates
Tom Clark, Cogentrix Energy; Sempra Generation
Wes Henderson, Nevada Association of Counties
Les Lee Shell, Clark County
Bart Mangino, Community and Government Relations, Clark County School District
Doug Sonnemann, Assessor, Douglas County
R. Scott Rawlins, P.E., C.P.M., Deputy Director/Chief Engineer, Nevada Department of Transportation
A. Reed Gibby, Ph.D., P.E., Chief Operations Analysis Engineer, Nevada Department of Transportation
Dawn Lietz, Supervising Auditor, Audit Section, Motor Carrier Division, Department of Motor Vehicles
John Madole, Executive Director, Nevada Chapter, Associated General Contractors of America, Inc.
Paul Gianoli, Western Nevada Transport
Mike Rich, Trucking Supervisor, Q&D Construction, Inc.
Clint Capurro, President, Capurro Trucking
Dan L. Martini, Equipment Manager, Sierra Nevada Construction, Inc.
Carole Vilardo, President, Nevada Taxpayers Association
Robert Morin, Professor, Political Science, Western Nevada College
Eric Herzik, Professor, Political Science, University of Nevada, Reno
Paul J. Enos, CEO, Nevada Motor Transport Association
David Howard, NAIOP, Commercial Real Estate Development Association, Northern Nevada Chapter
John P. Sande IV, Nevada Franchised Auto Dealers Association
Pete Olson, Nevada Representative, Dairy Farmers of America
Bryan Wachter, Deputy Director, Retail Association of Nevada; Retail Grocery Industry Council
Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce
Bill Christophe, Liberty Jersey Farm, Inc.
Ed Boe, Manager of Safety, Con-Way Freight

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation
Ed Meyer, President, Fundis Company
Rhonda Bavaro, Administrator, Motor Carrier Division, Department of Motor Vehicles
David S. Dixon, CFP, Dixon Financial Group, LLC

CHAIR COFFIN:
We will open the work session of the Senate Committee on Taxation. Our first bill will be Senate Bill (S.B.) 177, which has an amendment.

SENATE BILL 177: Requires the Department of Taxation to create on the Internet a searchable database of tax rates in this State. (BDR 32-929)

DINO DICIANNO (Executive Director, Department of Taxation):
I would like to make two changes to the amendment (Exhibit C) to clarify and reduce the fiscal impact. In section 1, subsection 2, add the following "To the extent that there is available money and resources, the database must be accessible by entering a zip code or street address." On page 2, add new subsection 6 which says the State means, "the taxes administered by the Department of Taxation found in Title 32 of *Nevada Revised Statutes*." Because of the testimony during our last meeting, we contacted the Oklahoma Tax Commission to find out about their cost of $8,000 for software changes for an Internet searchable database. They have 96 individuals on their information technology staff and a full complement of web-based programmers to do this work. Because we do not have a web-based programmer, we would estimate that our cost would be approximately $500,000 per biennium.

CHAIR COFFIN:
We can keep this bill alive by sending it to the floor of the Senate and rerefer it to the Senate Finance Committee.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 177.

SENATOR CARE SECONDED THE MOTION.

CHAIR COFFIN:
The amendment is a mock-up submitted by Senator Raggio on April 9 Exhibit C.

THE MOTION PASSED UNANIMOUSLY.

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We will close the work session on S.B. 177 and open the work session on S.B. 255.

SENATE BILL 255: Provides for a partial abatement of the ad valorem taxes imposed on certain residential rental dwellings. (BDR 32-65)

CHAIR COFFIN:
Senate Bill 255 is making an adjustment to the unintended consequences of A.B. No. 489 of the 73rd Session. The bill created the property tax cap of 3 percent on residential and 8 percent on commercial property.

JOE REEL (Deputy Fiscal Analyst):
Senate Bill 255 entitles owners of residential dwellings who collect rent in the amount that exceeds fair market rent established in the area to the 3-percent property tax cap in statutes rather than 8-percent tax caps. The owners would need to provide a rental credit to the tenants of those dwellings in the amount equal to the difference in taxes they would have paid under the 8-percent cap versus what they pay under the 3-percent cap.

CHAIR COFFIN:
Mr. DiCianno, would you have your staff type up the amendment to S.B. 177, so you can submit the fiscal note for processing? Senator Schneider is the sponsor of S.B. 255.

SENATOR MICHAEL A SCHNEIDER (Clark County Senatorial District No. 11):
Residential property owners and owner-occupied houses are capped at 3 percent, and the same houses that are tenant-occupied are capped at 8 percent. Over the years, the disparity between taxes paid is huge. The tenants keep paying higher taxes because the tax hikes are passed on by the owners. This would also affect apartment buildings.

CHAIR COFFIN:
We could not have known the inequity of A.B. No. 489 of the 73rd Session.

SENATOR CARLTON:
I had asked the testifier Senator Schneider referenced for information on how much money they had saved since A.B. No. 489 of the 73rd Session went into effect, and I have not received the information. My concerns are: disclosure to the tenant, how much are they getting, and enforcement of the compliance ensuring the landlord is passing on the adjustment. Nothing in S.B. 255 prevents the landlord from raising the rent 5 percent, giving them the 5-percent back but returning to the same amounts as before the legislation took effect. We have not built in the safeguards to make sure the people who should benefit from this legislation do benefit.

SENATOR CARE:
We could not have foreseen every possible consequence of this legislation. The issue is whether the 3 percent or 8 percent conflicts with the constitutional mandate for uniform and equal in the application of the property tax, absent severe economic conditions. This is an appropriate discussion, but it represents a piecemeal repeal of the inequity established by statute in 2005. That discussion may have to happen in a courtroom. In light of these financial times, I will not support the measure under these circumstances.

CHAIR COFFIN:
In reviewing the fiscal notes, I do not see any impact to the State's General Fund.

SENATOR SCHNEIDER MOVED TO DO PASS S.B. 255.

CHAIR COFFIN:
I welcome the thought of starting this discussion. Senate leadership will grant us one or two emergency bill drafts.

SENATOR TOWNSEND SECONDED THE MOTION.

SENATOR TOWNSEND:
I seconded the motion out of respect for my colleague who brought this forward. His efforts to find equity are remarkable. Two previous speakers mentioned that we did not deal with the renter aspect. There was a discussion to offer protection with regard to renters. There was discussion to offer protection for those who did not own a home. There was a concern for those who would have to rent as opposed to buy, whether by choice or by economic

circumstances. At the end of the day, the most defensible position we could take constitutionally was the one we chose to take.

SENATOR CARE:
I do recall efforts to imagine every possible scenario; I do not know if we did that, but I do appreciate the Senator's comments.

THE MOTION PASSED. (SENATORS CARE, CARLTON AND McGINNESS VOTED NO).

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CHAIR COFFIN:
We will close the work session on S.B. 255 and open the work session on S.B. 294.

SENATE BILL 294: Revises the formula for the allocation of money distributed from the Local Government Tax Distribution Account. (BDR 32-1029)

CHAIR COFFIN:
This bill of Senator Lee's has an amendment (Exhibit D).

SENATOR JOHN J. LEE (Clark County Senatorial District No.1):
This is an examination bill in which we will discuss whether it is appropriate to have assessed value, population base—all the things that go into the Consolidated Tax Distribution formula. There is an appointed group that will get together, have six meetings and after the meetings, we will report our findings back to this Committee and the Assembly Committee on Taxation.

MR. REEL:
Between the information in Exhibit D, the mock-up and the work session document, everything has been stated accurately.

SENATOR LEE:
All the large cities have a place on this committee, as do members from the Nevada Association of Counties (NACO) and Nevada League of Cities. We will work to see if we can formulate ideas that would allow it to grow and move along with the population-assessed value.

SENATOR WASHINGTON:
Would you explain the added provisions amending chapter 360 of the *Nevada Revised Statutes* (NRS)?

SENATOR LEE:
This was drafted to submit our proposal to the Committee. We will be allowing the cities to submit proposals they want to discuss, and then we will have public hearings.

BRENDA ERDOES (Legislative Counsel):
We will be requiring the Committee on Local Government Finance to adopt regulations concerning the administration of this new continuing provision added to NRS 360. This will provide a forum for local governments which choose to bring their Consolidated Tax Distribution (CTX) issues to the Local Government Committee on Finance. The Committee has a duty to bring an evaluation to the Legislature at the next Session. If they determine the CTX formula should be changed based on what is provided to them by the local governments, they will be given a bill draft request (BDR) to bring to the Legislature. This is very important to local governments because it provides how they get their taxes and how much revenue they will get.

CHAIR COFFIN:
Do we have a motion?

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 294.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR COFFIN:
I will close the work session on S.B. 294 and open the work session on Senate Bill 285.

SENATE BILL 285: Provides for a partial abatement from the sales and use tax for services, labor and materials related to aviation. (BDR 32-688)

SENATOR TOWNSEND:
I will withdraw S.B. 285.

CHAIR COFFIN:
I will open the work session on S.B. 369. The sponsor is the chair.

SENATE BILL 369: Imposes a tax on the use of prostitution services and establishes the Office of Ombudsman for Sex Workers. (BDR 32-1228)

CHAIR COFFIN:
Your bill book has Amendment 4166 (Exhibit E). I will read the revisions, section 1, subsections 1 to 7. Section 10, subsection 3 reads "The receipt or other record of the use of a credit card or other method of payment other than cash for the payment of the excise tax imposed by subsection 1 shall not include any information regarding the payment of the tax other than the phrase 'state income tax.' Section 30, subsection 3 reads "The Ombudsman for Sex Workers shall use his office to the extent practicable to help those persons who provide prostitution services in geographic areas of this state where the local legalization of prostitution is prohibited by law."

You received testimony from Las Vegas that was not presented at the hearing because of transmission problems (Exhibit F and Exhibit G). The bill is fundamentally as heard earlier but now addresses concerns raised by the public and interested workers.

SENATOR WASHINGTON:
The amendments to S.B. 369 were per my request. I would like to preface my statements by saying the amendments are important to me, especially the declaration dealing with sexual exploitation which is just as much a heinous crime as any other crimes we face. With the exploiting of children and women, we need a measure that would note this crime. The amendment I requested does not legitimize or delegitimize the industry as a whole nor does it promote or demote the industry as a whole.

I also requested that we look at the Ombudsman, because in my profession that deals with the hearts of men, the choices made are not always conducive to the betterment of mankind. With the choices come consequences, and the consequences create bad situations for the individuals involved in these activities. I have had the opportunity to work with a number of workers who have made the choice to engage in these types of activities, especially on the house end. When they come to me, their request is for someone to help them find new employment. Some have had repented hearts and shown remorse.

I was hoping that the Ombudsman would be the avenue to help these workers to reintegrate into the workforce and society. The young ladies who testified are intelligent and articulate, but others are not and need assistance. The position of Ombudsman is important to me, so I requested language that would address human trafficking and the situations these young ladies find themselves in. This may not be the vehicle, but the opportunity presented itself, and we took advantage of the situation. I want to restate that it is not my intent to legitimize or delegitimize the industry but to address a problem in our society. I would like to work with staff on the language in the amendment concerning the declaration and Ombudsman position, keeping the context the same.

> SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 369.

SENATOR SCHNEIDER:
Could we have staff review the amendment?

MR. REEL:
The amendment, in addition to the legislative declaration, Exhibit E, section 1, and the other amendment in section 10, addresses the use of a credit card to include the phrase "state excise tax." The last amendment on page 11 of the mock-up explains the duties of the Ombudsman, particularly where it extends into counties where prostitution is not legal.

SENATOR SCHNEIDER:
Could the tax stay in the counties where prostitution is legal?

MS. ERDOES:
The bill could be changed to make that case. We would have to work on the Ombudsman position because the first $100,000 goes to the position and the balance could go to the counties of origin.

SENATOR SCHNEIDER:
Senator Washington, I could support this if the money only stays in the counties that have chosen to be in this business.

CHAIR COFFIN:
How do you plan to add to State spending in these counties?

SENATOR SCHNEIDER:
The counties and voters have chosen and approved this business in their counties. The rural counties have chosen to be in this business. If we put the money into these counties, they will be less dependent on the funding that comes from Clark and Washoe Counties.

CHAIR COFFIN:
If you take into account that we need money in the General Fund for this Legislative Session, Senator Schneider's idea is less workable in this biennium because all the work has been completed on the budget. This suggestion would work better if we could make it part an amendment during the next biennia.

SENATOR WASHINGTON:
My concerns have been addressed in the amendments. How you distribute the money is up to you.

SENATOR SCHNEIDER:
If Senator Washington would amend this bill so the monies stay in counties that have chosen to be in this business, I would support it.

SENATOR WASHINGTON:
I will amend the motion to add another amendment to the bill. The funds generated in a particular county will stay in those counties.

CHAIR COFFIN:
We have a motion; do we have a second on S.B. 369?

SENATOR MCGINNESS:
The amendment gives money to rural Nevada, and then it supplants other monies from the State, which I object to. My original objection was that S.B. 369 adds a new tax on services, so now I have two objections.

CHAIR COFFIN:
If I confused you with the words supplant or supplement, let me say that if Senator Schneider's intent was that this extra money would go to rural counties, that is were it would go.

SENATOR SCHNEIDER:
I am not saying that I support legalized prostitution in any way, but we do have 10 of the 17 counties that have chosen to be in this trade. I realize this is a new tax and the Governor may veto it, but if they want to tax themselves and keep the money in the rural counties, I can support the bill. What shocks me from the testimony is that Clark County has 3,000 pimps and 40,000 prostitutes working The Strip. We do not police this activity, so we must condone the activity. We are not trying to control the activity. The different religious organizations are not mobilizing in Clark County, which makes me wonder what we are doing. We are opposed to prostitution, but we condone it—it appears. We condone it illegally, and we do not have the courage to vote it in or shut it down. I support the brothels coming forward and their willingness to help out, but I am not comfortable taking the money to Clark County because it is not raised there.

SENATOR SCHNEIDER SECONDED THE MOTION.

SENATOR CARE:
Sheriff Doug Gillespie's attempts to do something about prostitution in Las Vegas are ongoing, and I think the record will support his efforts. I would not concur with the word "industry" in describing what happens in Clark County.

THE MOTION FAILED. (SENATORS CARE, CARLTON, McGINNESS AND TOWNSEND VOTED NO).

CHAIR COFFIN:
I will close the work session on S.B. 389 and open the hearing on S.B. 331.

SENATE BILL 331: Provides a partial abatement of property taxes and certain sales and use taxes imposed on facilities that use solar energy to generate electricity or process heat. (BDR 58-289)

ALFREDO ALONSO, (Ausra Solar Incorporated; Large-scale Solar Association):
Senate Bill 331 is nothing new because this body took on the policy of abatements for the large-scale generation of solar energy. We are back because the abatements are due to expire this October. Applied Analysis conducted a study looking at comparisons between California, Nevada and Arizona. What you have before you is a race for this industry—with the desire to bring on more green energy—to make Nevada more self-sufficient with respect to energy.

Senate Bill 331 raises the abatement from 50 percent to 75 percent for 25 years on the property and 75 percent for 10 years on sales and use tax.

These abatements are different than the green building issue. The vast majority of these projects are going to be built on federal lands, and without the abatements, the land would remain vacant. Solar needs land and sun—Nevada has both. There are regulatory issues we will have to deal with before we get approval from the Bureau of Land Management (BLM) and the State. We have an executive summary (Exhibit H) on a project close to being built and the study on this project (Exhibit I, original is on file in the Research Library) as well as the Vote Solar Initiative (Exhibit J, original is on file in the Research Library).

PETER ERNAUT (BrightSource Energy):
We are here to support S.B. 331. The renewable and solar energy industry has become more robust in the last few years. It is a lucrative industry for many of the states in the Southwest, with Nevada being one of them. I represent BightSource Energy, which is under contact to provide 1,300 megawatts of solar power to Pacific Gas and Electric and 900 megawatts to Southern California Edison. These projects are going to be built in the Southwest with California, Nevada and Arizona at the epicenter of the solar area. The public policy decision concerns the right level of enticement needed for these projects to be built. These projects will never be built if the abatement or incentive is not right. The division of tax dollars and any return on investment on the back end becomes a moot point if the front end is not right. Senate Bill 331 is an attempt to create an industry that could diversify Nevada's economy overnight.

SENATOR MCGINNESS:
Churchill County had an issue with the abatement on these property and sales taxes. Have you talked to the local governments to make sure they are on board?

MR. ALONSO:
We have had discussions with local governments and the Nevada Association of Counties (NACO). I understand the issue, but I respectfully disagree with the contention that Nevada is the only place these companies will go. That has been one of the discussions on geothermal side. More than anything else, Nevada is the only place for geothermal. These companies are looking at other states; if these abatements disappear, you will see significant growth in other states that are strong in geothermal.

SENATOR MCGINNESS:
I understand, but there has to be a balance between the losses to local governments, especially in smaller counties.

MR. ALONSO:
I understand the issue, but if these projects do not have the abatements, they would not be there. This is new money, especially because the projects are on federal land which would not be developed. Mining would be the only industry using the land.

MR. ERNAUT:
There is a big swarm of jobs at the front end with people spending money in the community in which they live. These become projects that produce property sales tax which is not abated, and they drive no services because there are no permanent jobs relative to the amount of money they produce. This is the type of industry we want because it is income without any demand on the services. In the construction phase, a lot of activity drives sales tax from a number of levels in the different communities. There have been instances where this has not worked out, but that is the public policy issue we will struggle to get right on S.B. 331 and a number of other bills.

CHAIR COFFIN:
Where does the power go, and how much of this power will come to the State of Nevada?

MR. ALONSO:
The only way this will work is with the exportation of power. In the long run, you will create an industry that is not just about power—it is about power within the State. The industry created is about who manufactures the products, ships them and feeds the construction workers. There are huge outlays of capital per employee, so you are creating an industry with little service need.

SENATOR CARE:
When I look at the projected revenues of the two studies, one was completed by Applied Analysis. Who did the other?

MR. ALONSO:
Vote Solar Initiative, which is an independent nonprofit that advocates solar.

SENATOR CARE:
I would like Mr. Alastuey to explain these numbers.

MICHAEL ALASTUEY (Director of Public Policy and Analysis, Applied Analysis):
The study, Exhibit I, was restricted to a direct comparison of the abatement and exemption structure available to the solar industry in the states of California, Arizona and Nevada. We had to create, for purposes of comparison, a hypothetical circumstance of a 100-megawatt power plant with a specific number of estimated jobs in the construction phase and in the ongoing phase. Then we applied the tax codes of the three states as they exist now and if the Nevada abatements were to expire. We also looked a situation if the Nevada abatements were to be enhanced, not unlike the ones proposed in S.B. 331.

The assumptions were intended to provide a uniform basis on which to estimate the impacts. For purposes of comparison, the prototype on which the calculations were based is a 100-megawatt plant producing 250 million kilowatt-hours per year, sold at 12 cents each, land usage roughly 2,000 acres. The capital investment for putting the plant online is $400 million, of which we assumed 80 percent in taxable equipment. There were assumptions applied to create pro forma financial statements that would apply for both state and federal taxes in each of the three states, including depreciation schedules.

On the executive summary, Exhibit H, the findings are shown in a composite, rolled-up fashion. As we compare Nevada's current abatement structure, Nevada finds itself highly competitive, with Arizona being the nearest competitor. In terms of the total tax payment due for the identical plant over the first 15 years of its construction and operation as shown on Exhibit H: The cost for Arizona is $26.1 million and Nevada, under Scenario 2, is $25.1 million. If Nevada abatements and exemptions are left to expire, that same plant would be paying $55.1 million, which would place it at a competitive disadvantage. In Scenario 3, if the abatements were enhanced—the enhancement for this scenario was figured at 100 percent of sales tax, which is different than S.B. 331 at 75 percent—Nevada would be more competitive than California and Arizona.

SENATOR CARE:
Page 12 of the impact analysis, Exhibit I, refers to $400 million for a 100-megawatt solar power plant. How do you finance a project like this?

MR. ERNAUT:
Two of BrightSource's biggest projects (Exhibit K) include the Ivanpah Solar Power Complex, which would employ 100-percent Nevada workers. The $3 billion investment creates 1,700 union construction job-years, 3,500 permanent job-years, with workers earning over $800 million. The second project in Coyote Springs, situated on private land, is bigger that the Ivanpah project and would be 600 megawatts. We are looking at a $4.5 billion investment and the appropriate percentage of jobs and spending. The financing has to do with the public policy that the Legislature ends up with at the end of this Session. The Coyote Springs Land Company project will be affected by the abatements or the net tax effect of public policy the Legislature puts together on this project. One of the biggest impediments is taxing production, which makes it difficult to finance, along with the tight credit market. With all of the issues raised in the stimulus package, all the issues in the credit market specific to renewable energy create a better opportunity for financing these projects. It really will be determined by the states' ability, in making policy, to create the correct incentives, not incentives on the back side which create impediments to financing or construction.

SENATOR CARE:
I realize the answer cannot be too specific because there probably is a letter of intent waiting to see what happens here.

CHAIR COFFIN:
Senate Bill 331 is eligible for an exemption. We can rerefer it to the Senate Committee on Finance, which will allow it to meet today's deadline and satisfy the House passage deadline.

SENATOR TOWNSEND:
I would like Mr. Alonso and Mr. Ernaut to address a couple of issues that would add clarity for the Committee. When you look at the fiscal note, it shows the loss in property taxes. Mr. Alonso stated most of these were going to be built on federal land. Does that mean there will be tax in-lieu because there is no property tax on federal land? Is there a thought process there? There is no loss because there is no property tax paid. Sales and use tax is paid.

MR. ALONSO:
Currently, there are no projects on federal land; however, we have two projects at Nellis Air Force Base and Boulder City. Boulder City has large benefits from

the lease, so there will be scenarios for the private land aspect. Large-scale Solar Association (LSA) (Exhibit L) is made up of 12 companies which are currently working on right-of-way permits and going through the BLM process.

SENATOR TOWNSEND:
My second point is since these are on federal land, you have not lost anything because there would not be money collected. On the private land, you mentioned Boulder City and Coyote Springs; we are collecting nothing other than the base. It would be helpful to the Committee to understand in Boulder City and Coyote Springs that if the land value is X and a certain tax is paid with increased value of the land due to the project, what does the land value go to and what is the loss? There is a misunderstanding about wiping out a tax. You actually increase the value of the land, and then part of it will be abated based on the bill.

MR. ERNAUT:
The project in Coyote Springs was developed on the land holdings of Coyote Springs Land Company; this location would be undevelopable private land if not for the project. There would never be anything other than the base rate on the land. The property value would increase exponentially, so nothing would have been collected except the base rate, and the 25 percent left after the abatement would be much larger than if there was no abatement.

SENATOR TOWNSEND:
The issue is, if the plant being built is number X, you add value by putting a plant on the property and then abate some of the tax. How do those two work? The value added is an important component. If our incumbent utility is the contractor or if the incumbent utility has to buy power on the open market, the one thing we forget to measure is the fossil-fuel generated energy versus renewable energy.

Once it is built, you do not have a fuel component. That is a larger issue we Legislators tend to forget about. We currently have a rate case in southern Nevada which is preauthorized due to a new statute that collects money before the plant is built. We have a gas-fired power plant in southern Nevada; it is a $780 million plant that produces 500 megawatts. When we look at the 600 megawatts in Coyote Springs or the potential of unlimited megawatts in Boulder City, it is never measured out in regard to fuel.

The plant in southern Nevada is going to be buying a commodity, coal or gas, every day because the plant will run 24 hours a day, 7days a week, which is what brings down the cost of renewable plants. When you bring the Committee these comparisons, you will find it is far more complex, and we need that kind of information. We do not include the potential for cap and trade, carbon tax or anything that benefits our renewables. The projects you have asked for are not unrealistic because our focus in Nevada should be on industrial-based, large-scale projects.

CHAIR COFFIN:
Could you reframe your question?

SENATOR TOWNSEND:
Can Mr. Alastuey take my questions, come back and better frame the defense of the bill economically for the Committee?

MR. ALASTUEY:
Senator Townsend, you raised several points. One has to do with separation between the estimates, and the other is the effect on the State's energy policy. If I understood, your remarks regard potential movement away from the reliance on fossil fuels because once a solar project is in place, there is no longer consumption of fossil fuel. In addition, your reference to the fiscal note and the land versus the personal property component, you would like us to provide remarks on the fiscal note with different amounts and assumptions.

CHAIR COFFIN:
I did not get an answer to my question on getting a piece of the power that is going to be exported. We are a policy committee on taxation, not a policy committee on energy. We need to focus on the benefits and costs of passing this legislation.

SENATOR CARLTON:
My questions go to the jobs that are nowhere near the jobs listed on the Vote Solar Initiative, Exhibit J, which are 1,220 jobs. It is my understanding that once these plants are up and running, very few jobs are needed.

MR. ERNAUT:
There is a bigger surge of jobs in the front end of the construction phase than at the end of the project for operation and maintenance (O&M) when there are

fewer jobs. At that point, an up-and-running plant is driving taxes with not as many people driving services.

SENATOR CARLTON:
It is not a criticism; it is the confusion on the different numbers we are receiving from different people. It is not the cash-flow issue. It is the document that states there will be 1,200 jobs; and that is not a number I have heard with any of these projects.

MR. ALASTUEY:
You may see different numbers from study to study because you need to take into account the capacity, whether it is 100 to 250 megawatts or 2 gigawatts, and whether the estimate includes indirect or induced employment or job-years. The figures we work with were those directly engaged on site in the construction of the plant and those in the O&M phase directly involved in the operation. Both solar and the other studies included estimates of indirect and induced jobs in the economy, outside the plant, for a longer number of years and a larger plant. When you line them up, each is multiples of one to the other.

SENATOR SCHNEIDER:
We all understand the benefits of the peak power situation with solar. During the peak, NV Energy has to buy power on the open market, which is expensive, and it is reflected in our power bills. With solar, you build the plant and the power is free, so the customers save a lot of money on their monthly power bills. My concern is with the abatements, we give away a lot. We have construction jobs. Once the plant is up and operating, our benefits stop. It will take many years to pay back the abatements we have given.

Are we going into the solar business because it makes us feel good, or are we going to get something back? All this power is going to California, so what is the benefit to Nevada? Do we tax the watts or tax electricity so we can get a payback? The more we can produce and send into California and Arizona, the more the State makes. If you tax the power leaving the State, that is unconstitutional because you have people in State. The benefit can be if NV Energy is making a profit exporting that power, when their profits come back at the Public Utilities Commission of Nevada, that profit can be applied to reduce rates in Nevada. That is where I am leaning.

MR. ERNAUT:
That describes the dilemma in determining the public policy. Talking about where the taxes go after it is built is incorrect because we are not competing with California. California is the customer, and they say within the next ten years, there will be 25,000 to 35,000 megawatts of need in the Western United States that do not exist today. Only two states, Nevada and Arizona, are going to provide that product, and we have this great demand in California. If you look at this as a CEO of one of these companies, these plants will be built because of the incentives both federally and in Nevada. Looking at a chart-what is the net effect—I can build it where the sun shines in either state. If the answer is not Nevada, then the public policy needs to be reviewed because these plants are going to be built because of the great demand. This gives us an opportunity to take a new industry with a positive political environment, both federally and in this region, and take advantage of this to create new jobs in the short term. The demand is there. The question is who is going to supply it. It gives us a big opportunity to diversify our economy.

SENATOR SCHNEIDER:
I agree with your statement providing we give the abatements to be competitive with Arizona, which we can match, and the companies coming in because the front-end costs need the abatements. Because of Arizona's tax structure, they are able to sweeten the pot up front and make it on the back end. Nevada can sweeten the front end, but we do not have anything on the back end. We have to start thinking about getting something back for the State. We need to develop a program that will allow us to make money for the State over time. I do not want to give it away forever.

MR. ALONSO:
This process is working out the policy. Our hope is that it is a big enough incentive to bring these companies to Nevada. Some of the issues that have come up are significant with respect to where these are built. It is federal land. At 100 megawatts, the State is bringing in over $30 million over the life of the plant. As the plant sizes increase, that number is bigger. You also get back 5 percent on the federal leases.

CHAIR COFFIN:
We should do all we can to support the solar industry for Nevada. I support abatements, but I am still a little uncomfortable about no real understanding of what revenue would come to the State. If we do not get the power, then we

should receive revenue. Where does the 5 percent on federal leases go? We also need the information in the fiscal note.

MR. ALASTUEY:
With geothermal on federal leases, part of the revenue comes back to the State. Our studies did not include that information.

DEBORA H. TESKE (Community Development Specialist, Lander County; Lander Economic Development Authority):
We support the provisions in S.B. 331 relative to the partial abatement of certain property and sales and use taxes for solar-and electric-power generated facilities. We are engaged in the Dakota Project, a renewable energy, solar industrial park that covers approximately 12,000 acres of Lander County. The key components (Exhibit M) in the Dakota Project are a warehouse distribution center, a cargo hub, a renewable energy power grid, renewable energy research and development center, and the manufacturing of solar—and wind-powered generation components. We are working with the project developer to secure the necessary loans, grants and other federal stimulus funding to strengthen the funding matrix for the project. We believe the provisions contained in S.B. 331 would aid in the overall success of the Dakota Project.

KYLE DAVIS (Policy Director, Nevada Conservation League):
We support S.B. 331. We do not know what the figures look like regarding the correct numbers to entice a renewable development. One of the benefits that comes to the State is the advances we make toward global climate change. This is something we need to get us off carbon-based fuels. When we talk about renewable resources, solar has a lot of potential in Nevada, but we should not lose sight of the other renewable resources. We need to remain competitive in geothermal and wind.

JOE JOHNSON (Sierra Club):
The Sierra Club supports incentives for clean-energy projects.

CHAIR COFFIN:
How are we going to get a piece of this power?

MR. JOHNSON:
You should consider a tax on the existing fossil fuel plants to incentivize the development of renewable energy. We have about five plants that export power from fossil fuels in the State.

CHAIR COFFIN:
We have extraction taxes on geothermal.

MR. JOHNSON:
This is an important point because the mineral lease program returns 75 percent of the total revenues that the developers of geothermal pay in bid premiums. The distribution of these funds was changed by S.B. No. 1 of the 25th Special Session to go into the State Distributive School Account or the county of origin. Five percent of the right-of-way lease payments go to the State School Account. The right-of-way for solar and wind should be treated like geothermal leases because a good portion comes back to the State.

SENATOR CARLTON:
The fuel and purchase component can be applied to the ratepayer bills. We would be taxing a fossil fuel plant where the ratepayers would end up paying for it without receiving the benefit of the solar because we cannot restrict the solar to sell only in Nevada.

MR. JOHNSON:
The bill has a charge identified for rebate programs for solar generation and other demonstration programs. If there was a balance of the tax levied on the fossil fuel plants and you replace that charge with solar, you could even out the charge to the ratepayer.

TIM RUBALD (Rubald and Associates):
We heard the term alterative energy, but the bill only deals with solar. I would urge the Committee to look at wind for this bill which is taxed the same as solar. I have an amendment (Exhibit N) on the bill which includes the word "wind." This is all new money, making it a competitive issue on whether we can get these facilities to Nevada. If that occurs, and we are able to abate a portion of the taxes, then we make it up over time. I just completed a fiscal impact study for a large alternative energy company that is looking at coming to Nevada. Over the next ten years, they would pay over $50 million to the local

government in new taxes under our current system of abatements. That has a big impact on this rural county; it is larger than their current budget.

CHAIR COFFIN:
The abatements are temporary, but the question remains: what does Nevada get from this in terms of revenue?

MR. RUBALD:
Part of the situation not addressed is most of these developers are independent power producers, and they will sell their power wherever they are paid the most. If they can sell it to Los Angeles Department of Water and Power for 19 cents a kilowatt hour and NV Energy is only willing to pay 6 cents, it is obvious where they will sell their power. As a consumer, I do not want to pay 19 cents. As these projects continue to be developed over time, parity will begin to occur. The NV Energy tries to protect their ratepayers but also protect their company in their negotiations for power purchase agreements.

ANNIE CARMICHAEL (Federal Policy Director, Vote Solar Initiative):
My colleague, Jim Baak, who introduced the study that Senator Carlton referenced, cannot be here today, Exhibit J. I would be happy to review all of the assumptions in the study with this Committee. I would like to address Senator Carlton's question: the numbers are based on induced direct and indirect jobs. We fully support this S.B. 331.

CHARLES BENJAMIN (Director, Nevada Office, Western Resource Advocates):
Our organization offers nonprofit environmental advocacy. We operate in the Intermountain West, promoting sustainable land, energy and water issues. We have worked with United States Senator Harry Reid on his proposal for national transmission grid and much of that is orientated to the Midwest. I have worked with wind developers on building a national infrastructure that could take wind energy and carry it all over the United States, including California. The process of bringing wind from the Midwest has already started. Last month, the Federal Energy Regulatory Commission approved two transmission lines from Montana and Wyoming that would bring wind energy from those states through Nevada and then wheeled through the Las Vegas transmission grid into southern California. Everybody is trying to supply the enormous need for energy demands of California, not just Nevada and Arizona, with solar and geothermal. There may be an opportunity for Nevada in terms of generating revenue through transmission. These independent power producers are going to need

transmission, and some states have developed authorities to facilitate transmission of wind and other resources for exports.

TOM CLARK (Cogentrix Energy; Sempra Generation):
Sempra Energy, after the abatement, will pay over $100,000 in property taxes. Boulder City owns all of the land in Eldorado Valley, so we pay a lease to Boulder City of $160,000 a year. We are expanding the plant by 50 megawatts, so the State and Clark County will receive five times the amount they are getting from our 10-megawatt facility. The abatements encouraged Sempra Energy to bring the project to Nevada. We are giving back to the State. We are selling the energy to California because we received a better rate. The estimated abatement we received was $1.8 million.

WES HENDERSON (Nevada Association of Counties):
The Nevada Associations of Counties (NACO) supports the development of green energy and economic development, but we do have concerns with this bill. We would like see county involvement in determining the amount of the abatement and the length of time. There are a lot of bills this Session on abatements, exemptions and redirection of tax revenue. We would like them all to be part of the big picture.

LES LEE SHELL (Clark County):
We support NACO, and we would ask that abatements and exemptions be taken into consideration because they have an impact on local governments and our ability to provide services.

CHAIR COFFIN:
What would you like us to do?

MS. SHELL:
We would like to participate in the discussions. The Committee will decide policy, the abatements and exemptions given. We do not oppose abatements and exemptions, we just would like the Committee to understand they have an impact on the counties economically.

CHAIR COFFIN:
Were local governments opposed to the green energy abatements? We rolled back on abatements, I believe, in previous Sessions due to objections from local governments.

MS. SHELL:
I do not know the answer.

BART MANGINO (Community and Government Relations, Clark County School District):
We want to be on the record with concerns regarding the abatements of property and local support taxes. Senate Bill 331 has the potential of reducing income to school districts.

CHAIR COFFIN:
The issue is that no money is coming in unless these projects are built.

MR. MANGINO:
That is the primary topic of today's conversation.

SENATOR CARE:
What property does the abatement apply to? It appears that the real property would be dedicated for an exclusive use. Is that the personal property we are discussing?

MR. REEL:
Personal property is the issue.

DOUG SONNEMANN (Assessor, Douglas County):
On the real property side, it would be similar to many lease-hold interests on federal land that we tax. For resorts on federal land, the lease-hold interest is a taxable event.

MR. ALASTUEY:
As for the real property value in our study, we assumed 20 acres per megawatt plant or 200 acres to site a 100-megawatt plant. The biggest amount of taxable value is on personal property. We have a $400 million plant of which $320 million would be taxable personal property placed online and depreciated over time.

CHAIR COFFIN:
We will close the hearing on S.B. 331. Solar is so important. I want to keep this alive. There are some nagging concerns about revenue.

VICE CHAIR CARE:
We will open the hearing on Senate Bill 368.

SENATE BILL 368: Imposes an additional licensing fee on certain heavyweight motor vehicles. (BDR 58-942)

SENATOR BOB COFFIN (Clark Senatorial District No.10):
Our objective on S.B. 368 is restoring funds to the Highway Fund. Two years ago, we had a projected deficit of $4 billion to $5 billion, and we currently have a projected shortfall of $6 billion to $8 billion in the Highway Fund. This has occurred because of our lack of action during the Seventy-fourth Session. I have learned from my early years in the Legislature that, due to skillful lobbying and political activity in between the sessions, when it came to fairness on how we pay for our highways, bridges, preservation and maintenance of the highways, the issue was never resolved.

We asked for a Nevada Highway Cost Allocation Study on how highway dollars have been spent, since 1984. It concluded that heavy trucks do not pay their fair share for the construction, preservation and maintenance of our highways and bridges. We had the same Nevada Highway Cost Allocation Studies from 1985 through 2008, and the findings have concluded the same results found in the 1984 study. In 2009, because of the criticism of the Nevada Department of Transportation (NDOT), we decided to hire an outside consultant to complete the study. The Battelle Institute was commissioned to do this study (Exhibit O, original is on file in the Research Library). Their findings were the same as all of the other studies that concluded trucks do not pay their fair share.

The original bill for 12 cents per mile was drawn up based on the data presented to the Seventy-fourth Session. The solution is a weight-distance tax because the weight of these vehicles causes a lot of damage to the roads. Several states are using this approach, and with technology, it is even easier than before. A graph (Exhibit P) shows the estimated Highway Fund needs versus projected revenue and the increasing disparity between revenue and necessity. Twelve cents a mile sounds like a horrible figure, but that would be the amount of money needed to be equitable.

I propose 12 cents a gallon on diesel fuel. The amendment (Exhibit Q) is part of your package. A letter dated June 14, 1991, from the Department of Transportation concerning testimony of June 11, 1991, says our data indicated that under our current system of taxation, interstate trucks pay less than intrastate trucks for any given mileage. This occurs because interstate can prorate their registration fees based on percentage of miles traveled in Nevada. The point of the letter was the cost of administering a mileage fee program would not be any higher than the cost of administering the program we have today. If Nevada implemented a mileage fee and diesel tax structure, the cost responsibility could be spread more equably across the spectrum of heavy vehicles. I would ask the Committee to give this a do pass and refer to the Finance Committee. This has to be part of a larger tax package; we cannot fall farther and farther behind.

SENATOR CARE:
The figure I remember from the discussion on transportation in 2007 was Nevada Department of Transportation needed $5 billion in additional funding to complete the projects already scheduled. The bill that was crafted made provisions for $1 billion which would reduce it to $4 billion. Exhibit P shows an estimated shortfall by fiscal year (FY) 2016 of $5.3 billion to $6.7 billion. The point is we are short of Highway Funds.

CHAIR COFFIN:
There was confusion between the NDOT and the Blue Ribbon Committee on the differences in the shortfall. They were talking long-term; in construction days, this report is not a long time. Looking out 20 years, it is more like $10 billion.

SENATOR CARE:
The amendment is your new bill, and you also approve of the amendment submitted by Republic Services?

CHAIR COFFIN:
Yes.

SENATOR TOWNSEND:
Is it correct to say starting in FY 2011 to FY 2012, there is a gap between revenue and preservation needs?

CHAIR COFFIN:
That is true. Scott Rawlins will answer that question.

SENATOR TOWNSEND:
Putting major projects aside, that is just to preserve it. We end with a deficit in FY 2016 of a couple hundred million. What are the surrounding states using as a mechanism for funding roads. Do they use weight-distance or tax on diesel only and at what levels are they today?

CHAIR COFFIN:
I want a weight-distance study on all vehicles. Before I get away with completely attacking the truckers, we need to find a way for the future. With battery-powered cars becoming the norm, we are going to be desperate for money, and we cannot wait to start equalizing this situation.

SENATOR SCHNEIDER:
We have had this discussion in the Energy, Infrastructure and Transportation Committee and know that mileage has increased, causing fewer tax dollars. The hybrids are cutting into this; with the new plug-in hybrid their increased gas mileage will create less tax revenue. We have discussed having plug-in electric stations around the State, so we are starting a study in this issue.

R. SCOTT RAWLINS, P.E., C.P.M. (Deputy Director/Chief Engineer, Nevada Department of Transportation):
The graph in Exhibit P shows our planned needs over the next five to six years and our projected revenue sources. As the revenue line shows, with adding up NDOT expenditures and other projects, needs from other agencies, bond obligations and preservation needs coming out of the Highway Fund, we are running short even to meet our preservation needs for our system. These projections are through FY 2016, so we are $5.3 billion to $6.7 billion short. Senator Schneider asked whether A.B. No. 595 of the 74th Session money is included in the annual revenue line. The Las Vegas Convention and Visitors Authority portion of $300 million is included, and the measure's other money, which was the rental car and property tax, was not included in the revenue projection. That money was for bonding capacity up to $1 billion, and that revenue will not generate enough money to bond for that type of money.

CHAIR COFFIN:
Can we get neighboring state tax rates based on Senator Townsend's request?

MR. RAWLINS:
We can provide the information; the closest state to us that has a weight-distance tax is Oregon.

A. REED GIBBY, Ph.D. P.E. (Chief Operations Analysis Engineer, Nevada Department of Transportation):
California is higher.

SENATOR TOWNSEND:
How much do the taxes on special fuels versus normal gasoline raise per penny? Nevada's Highway Fund is user-based whereas California puts 15 percent to 16 percent of their general fund into the highway fund. Is that still the case?

MR. RAWLINS:
We do have some of those numbers. As to your second question, A.B. No. 544 of the 74th Session did give us General Fund money, but it was taken back over the last biennium.

MR. GIBBY:
Our estimated revenue generated per penny of fuel tax on diesel is $3.6 million.

MR. RAWLINS:
We will get back to you with the information on diesel and gasoline. Mr. Gibby's information is how we compare to other states.

SENATOR TOWNSEND:
I just want to know per penny of special fuel or gasoline. What is the revenue and what is your bonding capacity?

MR. RAWLINS:
Exhibit O shows the annual deficit and annual revenue needed to support bonding is 14.5 percent to 15.5 percent to offset the deficit.

DAWN LIETZ (Supervising Auditor, Audit Section, Motor Carrier Division, Department of Motor Vehicles):
The revenue that would be raised for each penny of special fuel is approximately on average $4 million per penny. The $3.6 million referred to is using the 2008 figures, which are significantly lower based on the economy.

Overall, we estimate about $4 million per penny of special fuel, and gasoline is about $12 million per penny. California's tax rate is 43 cents a gallon on diesel.

CHAIR COFFIN:
The Department of Motor Vehicles and NDOT have been ordered not to advocate on this by the Governor's Office. I wanted the Committee to be aware of this.

JOHN MADOLE (Executive Director, Nevada Chapter, Associated General Contractors of America, Inc.):
Our concern is there has been no increase in highway funding in the State since 1992. This has a potential to bring a significant revenue stream into the State Highway Fund. We have had cost increases exceeding 50 percent in the last few years, and maybe the 12 cents per gallon should be spread out over several years. We do not want to hurt our warehousing industry, but according to my calculations, if a truck carrying freight across this State entered on the California state line and exited on the Utah line—which is about 400 miles—using 80 gallons of fuel, this 12-cent increase would cost $9.60 for the truck to cross the State. Eighty percent of the trucks neither start in Nevada nor end in Nevada. The people are getting a bargain when they travel on our roads. The $9.60 for 25 tons of freight works out to about 38 cents a ton to transport from one side of the State to the other. This could bond a significant amount of money for highway construction. The truckers are getting a bargain for using our roads, and it is time for them to pay their fair share. We support the study on weight and distance for all vehicles because in the future, we will not be able to rely on gasoline taxes.

SENATOR TOWNSEND:
My issue is how we get the money for the roads. If we added a penny across the board for gasoline and special use in the first year, the bonding support level would be a penny. Then it starts to escalate to support all the projects. Is there an interest by the organization for indexing this challenge?

MR. MADOLE:
Is the question should we be doing something about both gasoline and diesel? Absolutely. The issue before us is diesel, which we support. If we add gasoline, I will be your strongest supporter. We have tried to index this in years past, and we were told to wait until the price falls below $1.25, and then we will index.

PAUL GIANOLI (Western Nevada Transport):
I could not support the original bill when it was by the mile, but I can support by the gallon. I would like to see it phased in over a few years. The roads do need to be maintained. Does everyone understand how the International Fuel Tax Agreement system works, how taxes are collected for trucks that do not fuel in the State and how it is all paid?

CHAIR COFFIN:
That is a good idea. If we process this bill or rerefer it to Finance, we will consider it.

MIKE RICH (Trucking Supervisor, Q&D Construction, Inc.):
As a company that has over 80 trucks and uses over 400,000 gallons of clear diesel fuel a year, we are in support of this bill. Our roadways are suffering for lack of funds and are in desperate need of repair. We will need new diesel taxes to keep them safe and in good condition. We also support this bill because it will put people to work and help Nevada's economy.

CLINT CAPURRO (President, Capurro Trucking):
We are in support of S.B. 368, as per gallon, because our highways need help.

DAN L. MARTINI (Equipment Manager, Sierra Nevada Construction, Inc):
We are in support of S.B. 368 in its current state as a fuel tax. We also support indexing all fuels.

CAROLE VILARDO (Nevada Taxpayers Association):
I have not seen the amendment, but I do have a couple of questions. At this point in the economy, the increase is huge. I understand the need for increased funding and the reason the weight-distance tax has not gone forward because it did not prove efficient for many reasons. There are arguments to be made on both sides. One of the things going on between Washoe County Regional Transportation Commission and the Nevada Department of Transportation is a committee looking at highway funding and reviewing vehicle miles traveled.

There are many issues in this discussion: vehicle miles traveled, congestion management and a weight component. This would be a replacement for gas tax because we have learned all of the states use a per gallon fuel charge except the seven or nine states that use sales tax on fuel. It does two things; it does not keep up with inflation and it does not keep up with fuel efficiency. We have gotten further behind in trying to address the issue of how highways are funded.

This issue is being addressed by the Federal Highway Administration on Vehicle Miles Traveled (VMT). Our office will be participating in the committee meetings, which will look at privacy issues because there would be GPS tracking. It is my understanding that this committee will come to the next Legislative Session with a recommendation for a pilot program to look at all vehicles, a substitution for gas tax and how it would be implemented. That is the reason I think this bill is premature. If the Committee passes the bill, then I would suggest a phasing-in approach.

SENATOR CARE:
What is the process when you first read a bill before your organization is able to make a recommendation?

MS. VILARDO:
We have a whole series of positions on taxes, and most of them are policy positions. I do not have to poll because we have done the polling. I do have the positions on transportation issues. If it is not in policy parameters, I need to get a priority list from our board on their positions. I have not seen the amendment. Assuming it is a straight 12 cents, is it effective on July 1?

SENATOR CARE:
Sections 1 and 2 become effective on October 1. When you see a bill, you have already established your positions. This bill has two issues: an increase in taxes and is the amount acceptable? I find myself in a position of: here is a tax, make a decision now, whereas your organization would put some thought in to this.

CHAIR COFFIN:
Did you have a role on the Blue Ribbon Task Force that former Governor Kenny C. Guinn put together?

MS. VILARDO:
I sat on that Task Force committee and have all of the recommendations we supported. When these committees are finished, I need to take a look at the bills to see if the bills mechanically work.

CHAIR COFFIN:
What was the amount of that increase?

MS. VILARDO:
We identified 10 megaprojects. The revenue derived was not for pavement preservation and management as it was for the megaprojects. That was new construction.

CHAIR COFFIN:
The Nevada Taxpayers Association did support those increases for the megaprojects?

MS. VILARDO:
Yes. Transportation is a lifestyle issue; it is also an economic development issue, so it becomes important. That benefits the residents and it benefits us for attracting economic development.

CHAIR COFFIN:
Did you continue to support it when it came into the Task Force committee?

MS. VILARDO:
Yes, Senator, we did support it.

CHAIR COFFIN:
The Nevada Taxpayers Association has been judicious in how they approach these things.

MS. VILARDO:
Whether it is transportation or taxes, the easiest way to fix taxes is to make adjustments when times are good. One of the frustrations is we do not do that.

ROBERT MORIN (Professor, Political Science, Western Nevada College):
I have prepared written testimony (Exhibit R) on S.B. 368. I will cover the highlights. Because we did not have the amendment when the study was completed, we will not comment on it.

The vast majority of roadway users—whether on state, federal or locally funded roads—are passenger vehicles. The imbalance of use is shown graphically in Table 1.1. The imbalance is such that in order to accurately show a graph of use, one must collapse all categories on nonpassenger vehicles to register a comparison of passenger vehicles, Table 1.2. If we track vehicle registration since the Nevada Highway Cost Allocation Study of 1999, we find that Nevada roadways have seen a 25-percent expansion of registered passenger vehicles in the past decade, Table 1.4. At the same time, motor transport vehicle registrations show an actual decline of over 23 percent since the 1991 study, Table 1.5. The NDOT Study recommends that the percentage of transportation costs borne by the motor transport sector be increased from its projected 1999 level by nearly 75 percent, going from 27.4 percent of costs in 1999 to a recommended 48.4 percent of cost responsibility in the 2009 Study, Exhibit O.

All traffic lanes are treated without consideration of actual use, and all classes of vehicles are held liable for costs even if certain classes of vehicles are not likely to use lanes, have no demand for such lanes and, in the most egregious of situations, are legally prohibited from using certain lanes. The NDOT Cost Allocation Model fails to consider actual users and misses a key component of transportation system demand—congestion-driven pricing. We have recalculated the cost allocation numbers presented in the NDOT Model, adjusting for a significant decrease in actual roadway use by heavier vehicles and the increase of actual demand for roadways, new and maintained, from passenger vehicles.

These adjustments are at 0.5-percent, 0.6-percent and 0.7-percent levels of the overall cost allocation figure presented by NDOT. Applying the same cost allocation percentage as NDOT, 0.484 percent, to the equity-in-use baselines—which now take into account demand for roads—indicates that far from underpaying for transportation, heavier vehicles pay an equitable amount and in some cases, greater total costs than what their actual road use would yield.

The second final version of the NDOT Study notes "the vast majority of the revenues from operators of passenger vehicles are collected through vehicle sales tax and title fees [of] $400 million, [Government Services Tax] GST fees [of] $253.2 million gasoline taxes [of] $204.6 million and registration fees [of] $114.1 million." Nevada residents would think that when they pay their vehicle license plate and registration renewal fee on an annual basis, that revenue is used to pay for transportation-related expenses incurred by the State. These annual fees are generally considered to be user fees. Almost all of the revenue generated by the GST is diverted and sent to local government units and school districts. The GST revenue received by Washoe County goes into the Washoe County General Fund, where it is used for County government functions. The diversion of GST revenue to local governments and school districts for FY 2000-2001 was $173,725,590 and in FY 2007-2008 was $279,350,857. The reality is that rather than a transportation revenue shortfall issue, there is a revenue diversion issue. The NDOT Study is brief and narrow in its discussion of the revenue diversion issue.

The first part of fairness issue is the suggestion that nonpassenger vehicles bear the burden of increased taxes. The second part of the fairness issue is the forgotten factor and its associated analysis. The forgotten factor in this cost-allocation policy discussion, therefore, is the impact on Nevada citizens of an increase in the tax burden on the Motor Carrier Division. For example, groceries delivered by motor carrier to a local grocery store would increase in price in the event there was a tax increase. Groceries presently exempt from the sales tax would increase in price because of the backdoor tax increase imposed on the motor carrier industry. In addition, the backdoor tax, especially on basic items such as groceries, would be markedly regressive. The NDOT Study simply did not examine this policy issue in the broader context. The current NDOT Cost Allocation Study ignores the broader tax impacts an increase in motor transport cost will have throughout the entire State economy.

SENATOR CARE:
On what campus do you teach?

DR. MORIN:
I teach at Western Nevada College in Carson City.

SENATOR CARE:
What do you teach?

DR. MORIN:
Political science.

SENATOR CARE:
Do you have any experience in analyzing an NDOT study dealing with transportation and fuel tax costs?

DR. MORIN:
Senator, I have not. I have done general policy analysis.

SENATOR CARE:
I am sure there are certain methodologies that are applied to any sort of study.

DR. MORIN:
One standard, regardless of the type of policy you are analyzing, is to set forth with clarity your underlying basic assumptions.

ERIC HERZIK (Professor, Political Science, University of Nevada, Reno):
I have done studies with the University of Nevada, Reno, transportation department and sit on the panel Ms. Vilardo referenced concerning the Mileage Distance Study. The NDOT Study for cost allocation was silent on the cutting edge of what is coming for transportation taxation. I am on the panel, and they are silent in this hearing. We have done studies on hydrogen fuels. Multiple items that Dr. Morin explained are included in a narrow NDOT Study that wants to focus on a particular cost ratio which does not consider the base of users.

CHAIR COFFIN:
Dr. Herzik, are you an economist?

DR. HERZIK:
I am a political scientist and chair of the math and statistics department.

SENATOR SCHNEIDER:
Were you two hired by the Nevada Transport Association?

DR. MORIN:
That is correct. We were asked to look at it, which is good. We do not have to rely on policy analysis to make a living, so we can be clear in our view.

SENATOR SCHNEIDER:
You are paid by the university and community college system, and you took this as a side job?

DR. MORIN:
That is correct.

SENATOR SCHNEIDER:
There is no conflict on getting hired to produce a certain result?

DR. MORIN:
I was not hired to produce a certain result; I was hired to examine a report with Dr. Herzik to see what we thought and if there were any potential problems. We were not hired for a result but for analysis. I stress to my students to get involved in the political process in all respects and thought I should practice what I preach.

SENATOR CARE:
I had a bill before the Committee on Government Affairs that died on a vote of 4 to 3 that would have required public disclosure of the existence of contracts between full-time university employees and third parties. We were told we cannot reveal the information; we have to protect the university employees. And we are here testifying about one such contract or the results of the contract.

DR. HERZIK:
The University has a conflict of interest disclosure form which I have filled out. We are allowed to engage in consulting. I am on annual leave today.

PAUL J. ENOS (CEO, Nevada Motor Transport Association):
We are in opposition to S.B. 368 as written and as amended. I have the fuel tax rates in the surrounding states. Arizona diesel tax is 27 cents, California is 36.6 cents, Idaho is 25 cents, Nevada is 27.81 cents, Oregon has no tax on diesel and Utah is 24.5 cents. If we raise our diesel tax 12 cents, we would be the third highest in the country. Drs. Herzik and Morin talked about equity, and equity is what NDOT based their study on, trying to figure out who pays their fair share and who does not. They mentioned the addition of revenue credited to passenger vehicles of $730 million.

The value in the NDOT studies to determine the ratios as to whether trucks pay their fair share is a flawed number to which Dr. Gibby agreed and asked that be removed from the 2009 Highway Cost Allocation Study. It drives every number in the study to show trucks do not pay their fair share. The other issue not quantified in the study was the value of trucks to the economy. Everything in our economy is impacted by a truck. In the State of Nevada, 90 percent of all tonnage is moved by truck.

With the 12-cent tax on diesel, we are looking at a 40-percent increase. I understand fuel tax is the preferred mechanism for road funding, especially where compared to weight-distance tax. In the past, our Association has supported across-the-board fuel tax increases, and we would be willing to look at this again in the future. The VMT is the future. We only have one definitive study completed in Oregon on VMT, and the findings showed the failure rate on the technology was about 15 percent. It will take time to implement VMT—probably many years—because of the technology involved. The audit mechanism in VMT is much higher. Concerning the fuel tax, we audit 173 different entities. We have 2.1 million passenger vehicles, 26,000 trucks and interstate trucks that travel our roads. Developing an audit mechanism is something one state would not be able to do. It should be looked at on a national level.

These are difficult economic times that our truckers have to deal with. We have trucking companies that will not benefit from the short-term road projects, they are just paying for them. When taxing trucks, key decisions need to be considered: how much is it going to cost to run this truck and keep it operating?

SENATOR CARE:
In the reviews by Drs. Morin and Herzik, (Exhibit R), page 5 says Nevada has been one of the hardest-hit states in this recession, but it goes on to say:

> The forgotten factor in this tax and cost allocation policy discussion, therefore, is the impact on Nevada citizens of an increase in the tax burden on motor carrier industry. This type of a tax increase would, in effect, result in an increase in the cost of living for all Nevada residents when they can least afford an increase in the cost of living.

Is your industry saying this is not the time for taxes?

MR. ENOS:
We are in dire straights and you have to do different things, but in talking to my members who are struggling, laying people off and thinking about closing their doors, the last thing they want to talk about is more taxes. We still need to discuss this issue, and we would like to be part of that discussion.

CHAIR COFFIN:
Two years ago, in the Taxation Committee, you were opposed to the taxes.

MR. ENOS:
That is incorrect. During last Session, we supported an increase in both gas and diesel fuel.

CHAIR COFFIN:
What was that amount?

MR. ENOS:
It was a 6-cent, across-the-board increase.

CHAIR COFFIN:
The Governor came to our hearing in 2007 and said he would veto it.

MR. ENOS:
I was not in the room when the Governor said he would veto that tax. I remember S.B. No. 324 of the 74th Session, sponsored by Senator Amodei. We endorsed an across-the-board increase on both gas and diesel at 6 cents. Times are much different today than they were then.

CHAIR COFFIN:
Would you get together all of this testimony from your people into a package and submit to the Committee?

SENATOR SCHNEIDER:
My question is similar to Senator Care's in that—quoting from Exhibit R—"impact on Nevada citizens of an increase in the tax burden on the motor carrier industry. This type of tax would, in effect, result in an increase in the cost of living for all Nevada residents when they can least afford an increase in the cost of living." My question to Dr. Herzik is: does a corporate tax or a service tax fall into the same category as a cost-of-living increase to Nevadans?

DR. HERZIK:
Our analysis focused on a specific tax that would have a specific and a regressive aspect because of the products carried. In the report, we give an example of increasing costs in the grocery store, which is a sales tax-exempt item but would be a backdoor tax on an average Nevadan. You are reading it in a very narrow context; in this case, the tax will have a specific and uneven affect on Nevadans. The broader tax question is not part of the report, so I am just giving you my opinion.

SENATOR SCHNEIDER:
You put all your facts together regarding the trucking industry when you made this statement.

DR. HERZIK:
Our study was focused on a response to the NDOT study. We just looked at transportation.

DAVID HOWARD (NAIOP Commercial Real Estate Development Association, Northern Nevada Chapter):
We represent about 70.5 million square feet of property that is warehousing and logistics and relies specifically on truck traffic. I would like this Committee to keep in mind that beyond gasoline and diesel fuel, there are things like development competition with other states, which are watching us. Our competition is Utah, Arizona and California for the overnight delivery that comes out of northern Nevada. When you put together this big tax package, please keep in mind that we have competitors, and they are close.

JOHN P. SANDE IV (Nevada Franchised Auto Dealers Association):
We are here to oppose this bill. We respect the necessity of the State to maintain its roads and come up with tax structure that will work for everybody. It is difficult to be a car dealer now with the possibility of bankruptcy of General Motors and Chrysler, diminished car sales and a potential increase in taxes on the automobiles we are trying to sell. Clark County has an approximate 50-percent decrease in car sales—and the near future does not look promising.

PETE OLSON (Nevada Representative, Dairy Farmers of America):
We produce about 400 million pounds of milk and buy about 300 million pounds of feed, which all require the use of trucks. We are going through the worst economic times ever. Our farms are all losing money, so any additional tax makes it worse. This tax might be better suited for better times.

BRYAN WACHTER (Deputy Director, Retail Association of Nevada; Retail Grocery Industry Council):
We represent one of the end users; ultimately, our consumers are the end users of a tax on the transportation system. In the book, *The Agriculture Marketing System*, author V. James Rhodes estimates that "6 to 12 percent of the consumer dollars spent on food consumed in the home represents just the transportation costs." Growth and Energy, a nonprofit group designed to

advance renewable energy, completed an analysis and noted consumers pay four times more to ship a box of corn flakes from the manufacturer, to the grocery store than they pay for the corn that goes into the box. Transportation plays a huge role in the final cost of food, and any increase in price will be a direct result in the percentage of income that people spend on food.

TRAY ABNEY (Director, Government Relations, Reno-Sparks Chamber of Commerce):
Our Agenda for Economic Vitality study states we support user-based broad financial support of our highways, but we do oppose single-industry taxation. Last week, we supported S.B. 201, and so we do support transportation issue solutions. That measure included both diesel and gasoline taxes just in Washoe County. All users pay under that bill.

SENATOR CARE:
That position is only if the voters have approved the tax?

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

MR. ABNEY:
Our position was in support of the Regional Transportation Commission (RTC) under Washoe County Ballot Question No. 5, and we now support S.B. 201. We do not have a position if only the voters support something.

BILL CHRISTOPHE (Liberty Jersey Farm, Inc.):
The increase in the cost of fuel impacts everything that comes in and goes out. Most industries have a Free On Board (FOB) price at the point of production, but our prices are FOB at the point of receipt. We pay to deliver our milk. The prices we receive for our product are regulated by the government. We cannot pass on the cost. The State needs a comprehensive solution, and this bill is not going to solve the problem.

ED BOE (Manager of Safety, Con-Way Freight):
I prepared written testimony (Exhibit S). I would like to respond to the comment that the trucking industry needs to step up and pay its fair share. We are a revenue generator for federal, state and local governments. The trucking industry paid $37.4 billion to federal and state highway and user taxes in 2006. Commercial trucks make up 12.5 percent of all registered vehicles, and they pay

over 36.5 percent in combined federal and state highway user taxes. In 2007, federal and state governments collected a total 48.9 cents in tax of each gallon of highway diesel fuel and 43.1 cents for each gallon of gasoline sold.

In my written statement, Exhibit S, I outline the difficulties Con-way trucking is going through. Our president and CEO points out that the less-than-truckload market remains hampered by soft demand as well as excess capacity, which year to date through February caused tonnage at Con-way Freight to decline approximately 12.5 percent year over year. "With these market conditions, which we don't expect to change in the near term, there is too much capacity chasing too little freight, so we have to manage accordingly," he said. Con-way is taking prudent steps to control expense, protect market share and conserve capital. It is not appropriate to pass S.B. 368 during this economic environment.

SENATOR CARE:
I welcome testimony from folks who are not lobbyists. On your bullet points, is the reduction in salaries to avoid layoffs?

MR. BOE:
We laid off employees in the latter part of 2008, approximately 2,500 people nationwide. We had 21,000 employees, and our revenues were matching our 2006 levels, so we reduced our workforce to approximately 18,000.

SENATOR CARE:
We note in the record that Sam McMullen of the Las Vegas Chamber of Commerce and the Nevada Restaurant Association says these organizations are not in favor of S.B. 368.

DOUG BUSSELMAN (Executive Vice President, Nevada Farm Bureau Federation):
We want to stress the dairy farmers who shared with you the impact this tax has on them. When you target a certain segment who use the roads, these are the people this issue affects the most. We do not have a way to pass along the expenses incurred. We know the bill has changed, but we think there should be an across-the-board application of this increase.

ED MEYER (President, Fundis Company):
Our primary business is running ocean containers between the Port of Oakland, California, and the logistics center in northern Nevada. Our revenues for the first quarter are down 20 percent. This tax would have cost me $24,000 for the first

quarter, and I could not have passed it through because my competition includes small owner-operators out of the State of California. We are opposed to S.B. 368 for that reason.

RHONDA BAVARO (Administrator, Motor Carrier Division, Department of Motor Vehicles):
We have been neutral on this bill. We submitted a fiscal note (Exhibit T) on the original bill, but based on the amendment, the fiscal note would be eliminated.

CHAIR COFFIN:
We will close the hearing on S.B. 368 and open the hearing on S.B. 208.

SENATE BILL 208: Excludes certain occupations from the payroll tax imposed upon financial institutions. (BDR 32-1142)

SENATOR TOWNSEND:
When we put the Modified Business Tax on financial institutions in 2003, it gave me the opportunity to appear before the Nevada Tax Commission to give an explanation on the legislation. My testimony explained the history and what the legislation intended to do. The purpose of S.B. 208 is to clarify who is included for the Department of Taxation.

DAVID S. DIXON, CFP (Dixon Financial Group, LLC):
I am in support of S.B. 208, which changes the definition of what a financial institution is as defined by NRS 363A.050. The statute includes an individual who hold a securities license and is registered under the Securities Exchange Act of 1934 and the Investment Advisors Act of 1940. Most people would think a financial institution is a bank or an insurance company or an investment firm.

I own a small financial retirement planning firm. I am essentially a broker. I clear all of my trades through an investment firm. I do not take deposits of client monies into my firm. Checks and retirement roll-over contributions are made payable to a brokerage firm, to an insurance company, to mutual fund companies and other third-party money managers. Clients receive statements directly from those financial institutions in which we place the money.

Why would the Legislature in 2003 conclude that a person who holds a securities license is considered a financial institution? When I deposit money, I get a statement from my financial institution, my bank. As the statute is written, I meet the definition of a financial institution, but in all practicality, I am not the institution. I would also conclude that the law is not equitably applied because agents, such as an Allstate Insurance agent, are regulated by the same securities acts under which I am regulated.

The Department of Taxation considers most people under the Modified Business Tax to be conducting general business as opposed to financial institutions; therefore, their tax rate is different than that of a financial institution. If you are going to treat one licensee different than another licensee, the State is in violation of its Taxpayer's Bill of Rights, which declares that each taxpayer has the right "to be treated by officers and employees of the department with courtesy, fairness, uniformity, consistency and common sense." In dealing with the Department of Taxation, I have been dealt with fairly. I just disagree with the conclusion.

SENATOR CARE:
Are fees paid by your industry to the State that no other industry is paying?

MR. DIXON:
We pay a security licensing fee to the State as well as insurance licensing fees.

SENATOR CARE:
Is that per brokerage branch?

MR. DIXON:
It is per person or per licensee.

SENATOR CARE:
How much is that fee?

MR. DIXON:
In the State of Nevada, it is probably under $200 per year. The Modified Tax has been poorly administrated. In my case, for four years the State of Nevada provided a Modified Business Tax form. I completed the form and returned it along with my tax payment. Four years later, they said I was filing the wrong form and assessed me back taxes, penalties and interest. I had no indication that I was filing the wrong form. They provided the form with the name of my

business printed on it along with my company ID and my tax ID numbers. I concluded that one should not tax an individual as an institution.

CHAIR COFFIN:
How many employees do you have?

MR. DIXON:
I just have three.

CHAIR COFFIN:
This is a matter of serious principle. We were opposed to any individuals paying on their own salary, which would be income tax. I trust you are not paying on your own income.

MR. DIXON:
I pay my own salary, so I am impacted by the Modified Business Tax.

MR. DICIANNO:
The Modified Business Tax is tied to what is reported to the Employment Security Division (ESD) for unemployment insurance. We rely on the classifications provided by ESD on how they classify these employers. From a policy standpoint, this body in 2007 removed collection agencies and pawnbrokers from the financial classification. You would have to remove individuals like Mr. Dixon from the financial classification of 2 percent, and they would go back to the 0.63 percent. This is a policy call.

CHAIR COFFIN:
What about on his individual draw?

MR. DICIANNO:
I would have to look into that. I do not know.

CHAIR COFFIN:
If he is paying on his own salary, is that right?

MR. DICIANNO:
I really do not know.

CHAIR COFFIN:
That was never our intention—to pay a tax on your own income.

MR. DICIANNO:
The calculation for the Modified Business Tax is on wages paid.

SENATOR MCGINNESS:
He is paying 2 percent on his salary instead of the 0.63 percent?

MR. DICIANNO:
That is correct, essentially because he is classified as a financial institution.

SENATOR MCGINNESS:
On the fiscal note, are there a lot of people in this category?

MR. DICIANNO:
Yes. That would affect 516 different entities. That makes up the fiscal note.

CHAIR COFFIN:
We will close the hearing on S.B. 208 and open the work session. I will recommend that we keep these three bills alive by rereferring them to the Senate Committee on Finance. We can ask to have them referred back to this Committee.

SENATOR CARE:
I am prepared to move on S.B. 208 today. On S.B. 331, I would recommend rereferring it to the Senate Committee on Finance. On S.B. 368, I cannot vote on a tax presented to me a few hours ago. My concern is a larger global bill that will arise at the end of the Session. I am prepared to vote up or down on S.B. 331, and if it goes down, the subject does not go away in the future.

CHAIR COFFIN:
I would not ask this Committee to do pass a tax bill like S.B. 368 today. We need to keep a fuel tax bill alive on S.B. 331, and on S.B. 208, because of the fiscal impact, the Senate Committee on Finance would have to approve the bill.

BRENDA ERDOES:
It is either do pass or rerefer to Finance, if you want to keep them alive.

SENATOR SCHNEIDER MOVED TO AMEND AND REREFER S.B. 208, S.B. 331 AND S.B. 368 TO THE SENATE COMMITTEE ON FINANCE.

CHAIR COFFIN:
Do we have a second?

SENATOR TOWNSEND:
Are we amending all three?

CHAIR COFFIN:
Senate Bill 208 does not need an amendment.

SENATOR SCHNEIDER:
I withdraw the motion on S.B. 208, S.B. 331 and S.B. 368.

SENATOR SCHNEIDER MOVED TO REREFER S.B. 208, S.B. 331 AND S.B. 368 TO THE SENATE COMMITTEE ON FINANCE.

CHAIR COFFIN:
If we properly work these bills, we can do them justice, and I think we can get them back from Finance. Do we have a second to his motion?

Senator Schneider:
I withdraw the motion on S.B. 208, S.B. 331 and S.B. 368.

SENATOR CARE:
I will make a motion on each one of them individually.

SENATOR CARE MOVED TO DO PASS S.B. 208.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR CARE MOVED TO AMEND AND REREFER S.B. 331 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR CARE MOVED TO INDEFINITELY POSTPONE S.B. 368.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR COFFIN VOTED NO.)

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CHAIR COFFIN:
The Senate Committee on Taxation is adjourned at 6:22 p.m.

RESPECTFULLY SUBMITTED:

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Mike Wiley,
Committee Secretary

APPROVED BY:

____
Senator Bob Coffin, Chair

DATE:______________________________