

Amendment No. 596

Senate Amendment to Senate Bill No. 439 (BDR 32-1002)

**Proposed by:** Senate Committee on Revenue and Economic Development

**Amendment Box:** Replaces Amendment No. 468.

**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 439 (§ 3).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of *green bold underlining* is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) *orange double underlining* is deleted language in the original bill proposed to be retained in this amendment.

BJF/BJE



Date: 4/23/2017

S.B. No. 439—Authorizes certain local governments to increase diesel taxes under certain circumstances. (BDR 32-1002)





SENATE BILL NO. 439—COMMITTEE ON REVENUE  
AND ECONOMIC DEVELOPMENT

MARCH 27, 2017

Referred to Committee on Revenue and  
Economic Development

SUMMARY—Authorizes certain local governments to increase diesel taxes under certain circumstances. (BDR 32-1002)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; authorizing boards of county commissioners in certain smaller counties to impose an additional tax on diesel fuel; authorizing ~~certain~~ persons who use diesel fuel in motor vehicles operated or intended to operate interstate to request and obtain reimbursement for the tax paid on diesel fuel consumed outside this State ~~++~~ under certain circumstances; enacting provisions governing the distribution of the portion of the proceeds of the tax on diesel fuel reserved by the Department of Motor Vehicles to pay reimbursement for the tax; revising provisions governing the projects for which certain smaller counties may use the proceeds of an additional tax on diesel fuel; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes counties to impose certain taxes on motor vehicle fuels and special fuels used in motor vehicles. (Chapter 373 of NRS) Under existing law, a board of county commissioners of a county whose population is 100,000 or more (currently Clark and Washoe Counties) is authorized, under certain circumstances, to impose county taxes on motor vehicle fuel and various special fuels used in motor vehicles. (NRS 373.030, 373.066, 373.0663) However, a board of county commissioners of a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) is authorized to impose county fuel taxes only on motor vehicle fuel. (NRS 373.030, 373.065) Section ++ 1.7 of this bill authorizes the board of county commissioners of a county whose population is less than 100,000 to impose a tax on special fuel that consists of diesel fuel sold in the county in an amount not to exceed 5 cents per gallon. Under section 1.7, an ordinance imposing such a tax must be adopted by a two-thirds majority of the board. A tax imposed pursuant to section ++ 1.7 would be administered, allocated, disbursed and used in the same manner as certain existing fuel taxes. (Chapter 373 of NRS) Section 1.5 of this bill includes highway truck parking, as defined in section 1 of this bill, as a project for which a county whose population is less than 100,000 is authorized to use the proceeds of the tax on diesel fuel

17 authorized by section 1 and issue revenue bonds secured by those proceeds. (NRS  
18 373.028, 373.131)

19 The Department of Motor Vehicles is a party to the International Fuel Tax Agreement, a  
20 multistate agreement which facilitates the calculation and collection of certain fuel taxes from  
21 interstate trucking companies and others who use special fuel (primarily diesel fuel) in  
22 vehicles operated or intended to operate interstate. (NRS 366.175) Existing law: (1) authorizes  
23 certain special fuel users to file with the Department a request for reimbursement of amounts  
24 owed to the special fuel user as a result of the Department's entering into the International  
25 Fuel Tax Agreement and the imposition of a tax on special fuels consumed outside this State;  
26 and (2) requires the Department to adopt regulations establishing a system to provide for the  
27 reimbursement of a person who files such a request. (NRS 373.083) **Section 3** of this bill  
28 authorizes a person who pays a tax imposed pursuant to section ~~1.7~~ 1.7 in a county in which  
29 the total number of gallons of diesel fuel sold in the county in the immediately preceding  
30 fiscal year is 10,000,000 gallons or more to file such a request and obtain from the  
31 Department a reimbursement of the tax on diesel fuel which is consumed outside this State.

32 Under existing regulations, for the purpose of paying reimbursements to special fuel  
33 users who file requests for reimbursement with the Department, the Department  
34 establishes a trust account for a county for which reimbursements are paid and deposits  
35 20 percent of the amount of taxes collected for the county in that trust account. Money in  
36 the trust account of a county must be used to pay requests for reimbursement of the tax  
37 imposed in the county which are approved by the Department, and any money  
38 remaining in the trust account after the payment of such reimbursements, including all  
39 accrued interest, must be distributed to the county for which the trust account was  
40 created. (NAC 373.160) Section 3 requires the Department to establish a trust account  
41 for a county which imposes the tax on diesel fuel authorized by section 1.7 and in which  
42 the total number of gallons of diesel fuel sold in the county in the immediately preceding  
43 fiscal year is 10,000,000 gallons or more. Section 3 also provides that under certain  
44 circumstances, a portion of the money in the trust account for such a county may be  
45 distributed to the Department of Transportation for use to construct, maintain or repair,  
46 or any combination thereof, highway truck parking in the county.

---

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1. Chapter 373 of NRS is hereby amended by adding thereto a**  
2 **new section to read as follows:**

3 *“Highway truck parking” means a parking area with easy access to or from a*  
4 *highway which is designated for a truck having a gross weight of more than*  
5 *10,000 pounds, in the course of the operation of the truck or during periods of*  
6 *mandated rest for the operator of the truck.*

7 **Sec. 1.3. NRS 373.020 is hereby amended to read as follows:**

8 373.020 As used in this chapter, unless the context otherwise requires, the  
9 words and terms defined in NRS 373.0205 to 373.029, inclusive, and section 1 of  
10 this act have the meanings ascribed to them in those sections.

11 **Sec. 1.5. NRS 373.028 is hereby amended to read as follows:**

12 373.028 “Project” means:

13 1. In a county whose population is 100,000 or more, street and highway  
14 construction, including, without limitation, the acquisition and improvement of any  
15 street, avenue, boulevard, alley, highway or other public right-of-way used for any  
16 vehicular traffic, and including a sidewalk designed primarily for use by  
17 pedestrians, and also, including, without limitation, grades, regrades, gravel, oiling,  
18 surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way,  
19 driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains,  
20 sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels,

underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators, and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition and improvement of all types of property therefor.

2. In a county whose population is less than 100,000, street and highway construction, maintenance or repair, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of highway truck parking or any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also, including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators, and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of all types of property therefor.

~~Section 1.7~~ **Sec. 1.7.** NRS 373.030 is hereby amended to read as follows:

373.030 1. In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance impose a tax on motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount not to exceed 9 cents per gallon.

2. *In a county whose population is less than 100,000 and for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance impose a tax on special fuel that consists of diesel fuel sold in the county in an amount not to exceed 5 cents per gallon. An ordinance authorized by this subsection must be approved by a two-thirds majority of the members of the board. Any proposal to increase the rate of the tax must be approved by a two-thirds majority of the board but such an increase must not cause the amount of the tax to exceed 5 cents per gallon.*

3. A tax imposed pursuant to ~~this section~~ *subsection 1* is in addition to other motor vehicle fuel taxes imposed pursuant to the provisions of chapter 365 of NRS.

~~3.1~~ *A tax imposed pursuant to subsection 2 is in addition to other special fuel taxes imposed pursuant to the provisions of chapter 366 of NRS.*

4. As used in this section:

(a) "Aviation fuel" has the meaning ascribed to it in NRS 365.015.

(b) "Leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

**Sec. 2.** NRS 373.060 is hereby amended to read as follows:

373.060 Any ordinance enacted pursuant to NRS 373.030 must provide that the county ~~motor vehicle~~ fuel tax will be imposed on the first day of the second calendar month following the enactment of the ordinance.

**Sec. 3.** NRS 373.083 is hereby amended to read as follows:

373.083 1. A person who uses special fuel in a motor vehicle operated or intended to operate interstate and who pays any tax imposed on ~~special~~ :

(a) Special fuels pursuant to NRS ~~373.030,~~ 373.066, 373.0663 or 373.066733 ~~may ; or~~

(b) Special fuel that consists of diesel fuel pursuant to subsection 2 of NRS 373.030 in a county in which the total number of gallons of diesel fuel sold in the county during the immediately preceding fiscal year, as determined by the Department, is 10,000,000 gallons or more,

may file with the Department a request for reimbursement of any amounts owed to the person as a result of the Department entering into an agreement pursuant to NRS 366.175 and the imposition, pursuant to subsection 2 of NRS 373.030 ~~or~~ or NRS 373.066, 373.0663 or 373.0667, of any tax on special fuels which are consumed outside this State.

2. The Department shall adopt regulations establishing a system to provide for the reimbursement and the auditing of the records of a person who files a request for reimbursement pursuant to subsection 1. The system established by the Department:

(a) Must authorize a person who uses special fuel in motor vehicles operated or intended to operate interstate to file a request for reimbursement as provided in subsection 1;

(b) Must provide that the Department will determine the eligibility for reimbursement of a person who files a request for reimbursement pursuant to subsection 1 before the Department will authorize the reimbursement;

(c) Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to subsection 2 of NRS 373.030 ~~or~~ or NRS 373.066, 373.0663 or 373.0667;

(d) Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate must not exceed 20 percent of the total amount of money collected ~~by~~ for that county from any tax imposed on special fuels pursuant to subsection 2 of NRS 373.030 ~~or~~ or NRS 373.066, 373.0663 or 373.0667; and

(e) Must not apply to any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding on June 12, 2013, secured by those taxes or of any bonds that refund such bonds provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

3. The Department shall charge and collect a fee in an amount not to exceed \$100 for each request for reimbursement filed by a person pursuant to subsection 1. All money from the fees collected by the Department pursuant to this subsection must be deposited in the Local Fuel Tax ~~(Indexing)~~ Fund created by NRS 373.087.

4. The Department and a commission which has been created in a county whose population is 700,000 or more and in which a tax is imposed pursuant to NRS 373.0663 or 373.0667 may enter into an intergovernmental agreement or contract pursuant to which:

(a) The commission agrees to pay for the costs incurred by the Department to establish the system pursuant to subsection 2 and administer the system until the amount of money received by the Department from the fees collected by the Department pursuant to subsection 3 is sufficient to pay the costs incurred by the Department to administer the system; and

(b) The Department agrees to reimburse the commission for any money paid by the commission pursuant to paragraph (a) from a portion of the money received by the Department from the fees collected by the Department pursuant to subsection 3.

5. For each county in which a tax is imposed pursuant to subsection 2 of NRS 373.030 and in which the total number of gallons of diesel fuel sold in the county during the immediately preceding fiscal year, as determined by the

Department, is 10,000,000 gallons or more, the Department shall establish and administer an interest-bearing trust account and deposit into the trust account 20 percent of the total amount of taxes collected for the county pursuant to subsection 2 of NRS 373.030 each month. Except as otherwise provided in this subsection, the Department shall use money deposited by the Department into such a trust account for a county, excluding the amount of any accrued interest, only to pay requests for reimbursement of the tax imposed in the county pursuant to subsection 2 of NRS 373.030 which are submitted to the Department pursuant to subsection 1. If the Department approves requests for reimbursement of the tax imposed in a county pursuant to subsection 2 of NRS 373.030:

(a) In an amount which is not more than 50 percent of the amount deposited by the Department in the trust account during the fiscal year, excluding the amount of any accrued interest, the Department must, at the end of the fiscal year and after the payment of all requests for reimbursement approved by the Department, distribute the balance remaining in the account, including the amount of any accrued interest, as follows:

(1) An amount equal to the difference between 50 percent of the balance remaining in the trust account before the payment of all requests for reimbursement, excluding the amount of any accrued interest, and the amount of all requests for reimbursement paid by the Department must be distributed to the Department of Transportation and used by the Department of Transportation only to construct, maintain or repair, or any combination thereof, highway truck parking in the county.

(2) Any balance remaining in the trust account after the payment of all requests for reimbursement approved by the Department and the distributions required by subparagraph (1), including any accrued interest, must be transmitted to the county in accordance with NRS 373.080.

(b) In an amount which exceeds 50 percent, but does not exceed 100 percent, of the amount deposited in the trust account during the fiscal year, excluding any accrued interest, the balance remaining in the trust account after the payment of all requests for reimbursement approved by the Department, including the amount of any accrued interest, must be transmitted to the county in accordance with NRS 373.080.

(c) In an amount which exceeds the amount of money deposited into the trust account of the county during the fiscal year, excluding any accrued interest, the Department must pay the approved requests for reimbursement on a pro rata basis and distribute any accrued interest to the county in accordance with NRS 373.080. For the purposes of this paragraph, "pro rata basis" means that the amount of each request for reimbursement approved by the Department will be proportionally reduced by multiplying the amount of reimbursement approved by the ratio of the total amount of money deposited into the trust account during the fiscal year, exclusive of interest, divided by the total amount of requests for reimbursement approved by the Department.

6. As used in this section, "special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 3.5. NRS 373.087 is hereby amended to read as follows:

373.087 1. The Local Fuel Tax ~~Indexing~~ Fund is hereby created as an enterprise fund. The Department shall deposit in the Fund all fees collected by the Department pursuant to subsection 3 of NRS 373.083. The Director of the Department shall administer the Fund.

2. Money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting

1 any applicable charges, must be credited to the Fund. Claims against the Fund must  
2 be paid as other claims against the State are paid.

3 3. Money deposited in the Fund must only be expended:

4 (a) To administer the system established by the Department pursuant to NRS  
5 373.083; and

6 (b) To reimburse a commission for any amounts paid by the commission  
7 pursuant to an intergovernmental agreement or contract entered into pursuant to  
8 subsection 4 of NRS 373.083.

9 4. The Director may maintain a reserve of not more than \$500,000 in the  
10 Fund. The reserve must be accounted for separately in the Fund and must only be  
11 expended to administer the system established by the Department pursuant to NRS  
12 373.083.

13 5. Any balance remaining in the Fund at the end of any fiscal year:

14 (a) Does not revert to the State General Fund; and

15 (b) Must be carried forward to the next fiscal year.

16 **Sec. 4.** This act becomes effective on July 1, 2017.