

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.

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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 if the registered voters of the county approve the imposition of the tax; authorizing 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:

1 Existing law authorizes counties to impose certain taxes on motor vehicle fuels
2 and special fuels used in motor vehicles. (Chapter 373 of NRS) Under existing law,
3 a board of county commissioners of a county whose population is 100,000 or more
4 (currently Clark and Washoe Counties) is authorized, under certain circumstances,
5 to impose county taxes on motor vehicle fuel and various special fuels used in
6 motor vehicles. (NRS 373.030, 373.066, 373.0663) However, a board of county
7 commissioners of a county whose population is less than 100,000 (currently all
8 counties other than Clark and Washoe Counties) is authorized to impose county



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9 fuel taxes only on motor vehicle fuel. (NRS 373.030, 373.065) **Section 1.7** of this
10 bill authorizes the board of county commissioners of a county whose population is
11 less than 100,000 to impose a tax on special fuel that consists of diesel fuel sold in
12 the county in an amount not to exceed 5 cents per gallon. Under **section 1.7**, an
13 ordinance imposing or increasing such a tax must be adopted by a two-thirds
14 majority of the board and be approved by the voters at a general or special election.
15 A tax imposed pursuant to **section 1.7** would be administered, allocated, disbursed
16 and used in the same manner as certain existing fuel taxes. (Chapter 373 of NRS)
17 **Section 1.5** of this bill includes highway truck parking, as defined in **section 1** of
18 this bill, as a project for which a county whose population is less than 100,000 is
19 authorized to use the proceeds of the tax on diesel fuel authorized by **section 1** and
20 issue revenue bonds secured by those proceeds. (NRS 373.028, 373.131)

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

36 Under existing regulations, for the purpose of paying reimbursements to special
37 fuel users who file requests for reimbursement with the Department, the
38 Department establishes a trust account for a county for which reimbursements are
39 paid and deposits 20 percent of the amount of taxes collected for the county in that
40 trust account. Money in the trust account of a county must be used to pay requests
41 for reimbursement of the tax imposed in the county which are approved by the
42 Department, and any money remaining in the trust account after the payment of
43 such reimbursements, including all accrued interest, must be distributed to the
44 county for which the trust account was created. (NAC 373.160) **Section 3** requires
45 the Department to establish a trust account for a county which imposes the tax on
46 diesel fuel authorized by **section 1.7** and in which the total number of gallons of
47 diesel fuel sold in the county in the immediately preceding fiscal year is 10,000,000
48 gallons or more. **Section 3** also provides that under certain circumstances, a portion
49 of the money in the trust account for such a county may be distributed to the
50 Department of Transportation for use to construct, maintain or repair, or any
51 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
2 thereto a new section to read as follows:

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



1 *of the operation of the truck or during periods of mandated rest*
2 *for the operator of the truck.*

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

4 373.020 As used in this chapter, unless the context otherwise
5 requires, the words and terms defined in NRS 373.0205 to 373.029,
6 inclusive, *and section 1 of this act* have the meanings ascribed to
7 them in those sections.

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

9 373.028 "Project" means:

10 1. In a county whose population is 100,000 or more, street and
11 highway construction, including, without limitation, the acquisition
12 and improvement of any street, avenue, boulevard, alley, highway or
13 other public right-of-way used for any vehicular traffic, and
14 including a sidewalk designed primarily for use by pedestrians, and
15 also, including, without limitation, grades, regrades, gravel, oiling,
16 surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian
17 rights-of-way, driveway approaches, curb cuts, curbs, gutters,
18 culverts, catch basins, drains, sewers, manholes, inlets, outlets,
19 retaining walls, bridges, overpasses, tunnels, underpasses,
20 approaches, sprinkling facilities, artificial lights and lighting
21 equipment, parkways, grade separators, traffic separators, and traffic
22 control equipment, and all appurtenances and incidentals, or any
23 combination thereof, including, without limitation, the acquisition
24 and improvement of all types of property therefor.

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

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

43 373.030 1. In any county for all or part of which a streets and
44 highways plan has been adopted as a part of the master plan by the
45 county or regional planning commission pursuant to NRS 278.150,



1 the board may by ordinance impose a tax on motor vehicle fuel,
2 except aviation fuel and leaded racing fuel, sold in the county in an
3 amount not to exceed 9 cents per gallon.

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

16 (a) *Adopt any ordinance authorized by this section unless the*
17 *board first submits to the voters of the county at a general or*
18 *special election the question of whether to impose a tax pursuant*
19 *to this subsection and such a question concerning the imposition*
20 *of the tax pursuant to this subsection is approved by a majority of*
21 *the registered voters of the county voting upon the question; or*

22 (b) *Increase the rate of any tax imposed pursuant to this*
23 *subsection unless the board first submits to the voters of the*
24 *county at a general or special election the question of whether to*
25 *increase the rate of the tax and such a question concerning the*
26 *increase of the rate of the tax is approved by a majority of the*
27 *registered voters of the county voting upon the question.*

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

31 ~~3-1~~ *A tax imposed pursuant to subsection 2 is in addition to*
32 *other special fuel taxes imposed pursuant to the provisions of*
33 *chapter 366 of NRS.*

34 4. As used in this section:

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

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

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

41 373.060 Any ordinance enacted pursuant to NRS 373.030 must
42 provide that the county ~~motor vehicle~~ fuel tax will be imposed on
43 the first day of the second calendar month following the enactment
44 of the ordinance.



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

2 373.083 1. A person who uses special fuel in a motor vehicle
3 operated or intended to operate interstate and who pays any tax
4 imposed on ~~special~~ :

5 (a) *Special* fuels pursuant to NRS 373.066, 373.0663 or
6 373.066733 ~~may~~ ; or

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

12 ↳ *may* file with the Department a request for reimbursement of any
13 amounts owed to the person as a result of the Department entering
14 into an agreement pursuant to NRS 366.175 and the imposition,
15 pursuant to *subsection 2 of NRS 373.030 or NRS 373.066,*
16 *373.0663 or 373.0667,* of any tax on special fuels which are
17 consumed outside this State.

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

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

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

29 (c) Must provide that any reimbursement authorized by the
30 Department be paid from only money received by a county pursuant
31 to any tax imposed on special fuels pursuant to *subsection 2 of NRS*
32 *373.030 or NRS 373.066, 373.0663 or 373.0667;*

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

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



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

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

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

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

20 5. *For each county in which a tax is imposed pursuant to*
21 *subsection 2 of NRS 373.030 and in which the total number of*
22 *gallons of diesel fuel sold in the county during the immediately*
23 *preceding fiscal year, as determined by the Department, is*
24 *10,000,000 gallons or more, the Department shall establish and*
25 *administer an interest-bearing trust account and deposit into the*
26 *trust account 20 percent of the total amount of taxes collected for*
27 *the county pursuant to subsection 2 of NRS 373.030 each month.*
28 *Except as otherwise provided in this subsection, the Department*
29 *shall use money deposited by the Department into such a trust*
30 *account for a county, excluding the amount of any accrued*
31 *interest, only to pay requests for reimbursement of the tax imposed*
32 *in the county pursuant to subsection 2 of NRS 373.030 which are*
33 *submitted to the Department pursuant to subsection 1. If the*
34 *Department approves requests for reimbursement of the tax*
35 *imposed in a county pursuant to subsection 2 of NRS 373.030:*

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

43 (1) *An amount equal to the difference between 50 percent*
44 *of the balance remaining in the trust account before the payment*
45 *of all requests for reimbursement, excluding the amount of any*



1 accrued interest, and the amount of all requests for
2 reimbursement paid by the Department must be distributed to the
3 Department of Transportation and used by the Department of
4 Transportation only to construct, maintain or repair, or any
5 combination thereof, highway truck parking in the county.

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

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

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

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

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

33 373.087 1. The Local Fuel Tax ~~Indexing~~ Fund is hereby
34 created as an enterprise fund. The Department shall deposit in the
35 Fund all fees collected by the Department pursuant to subsection 3
36 of NRS 373.083. The Director of the Department shall administer
37 the Fund.

38 2. Money in the Fund must be invested as the money in other
39 state funds is invested. The interest and income earned on the
40 money in the Fund, after deducting any applicable charges, must be
41 credited to the Fund. Claims against the Fund must be paid as other
42 claims against the State are paid.

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

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



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

4 4. The Director may maintain a reserve of not more than
5 \$500,000 in the Fund. The reserve must be accounted for separately
6 in the Fund and must only be expended to administer the system
7 established by the Department pursuant to NRS 373.083.

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

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

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

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

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