

The meeting was called to order at 2:15 P. M. on Thursday, April 24, 1979, in Room 213, with Senator Norman Glaser in the Chair.

PRESENT: Chairman Norman Glaser
Senator Don Ashworth
Senator William Raggio
Senator Mike Sloan
Senator James Kosinski
Senator Carl Dodge

Mr. Ed Schorr, Fiscal Analyst

ABSENT: Senator Floyd Lamb

GUESTS: See Exhibit "A."

PROPOSITION SIX

A presentation on Proposition Six by Mr. Frank Daykin, Legislative Counsel, was the first order of business.

Mr. Daykin was called upon by the Chair to explain the constitutionality of Proposition Six and perhaps present an approach that might be taken in this matter. He said that Question Six (hereinafter referred to as "Proposition 6" or "Question 6"), if ratified, and made a part of the Nevada Constitution, would violate the equal protection clause of the federal Constitution insofar as it purports to freeze the assessment of property at its 1975 level until the property changed hands. He believes it would be possible to obtain a test of the validity of Question 6 before it is submitted to the people a second time. There is precedent in Nevada Supreme Court decisions for seeking an injunction against placing the question on the ballot, when it would finally be acted upon, if the question would be unconstitutional or otherwise void.

Mr. Daykin went on to explain the procedure that could be taken originally in cases of this sort. The way the opposition to the advisory vote on ERA was handled shows the question can be heard in only reasonably accelerated proceedings. Mr. Daykin said that if this litigation was to be commenced promptly after the adjournment of this session, it would have about four more months than the ERA question had. Mr. Daykin concluded by saying that the above testimony was the broad outline of his response to a previous question of Senator Lamb's and as he had explained it to Senator Glaser.

The Chair asked for any questions.

Senator Sloan asked if, in Proposition 13 in California, there was a similar freeze mechanism.

Mr. Daykin replied that there was, and the Supreme Court of California,

PROPOSITION SIX - (con't.)

when it sustained Proposition 13, clearly reserved final decision on that particular point. He pointed out the the language of Question 6 is not identical to that of Proposition 13 upon this matter. Mr. Daykin said that in the majority opinion, Proposition 13 was described as "assessment by date of acquisition." Question 6 does not do that, and is even harder to square with the equal protection clause.

Senator Kosinski asked Mr. Daykin if there is a severability clause in Question 6 and Mr. Daykin replied that there is not. There is one in Proposition 13.

Senator Dodge asked what the effect would be if some of the provisions of Question 6 were held unconstitutional. Mr. Daykin responded that if Question 6 had been ratified by the people and then part of it was held unconstitutional, the court would apply the ordinary rules of severability, and try to separate the parts that were unconstitutional from those that were not. If it is presented in advance of a vote, there is a possibility that the court would try to do the same thing, and render a declaratory judgment. It might enjoin the measure altogether, but short of that, it would be possible for the court to let it go on the ballot, judging that even if the Question is ratified, certain portions of it would not go into effect.

Senator Sloan then asked, in relation to the ERA contest, in that litigation, weren't they essentially questioning the right of the legislature to put the question on the ballot. Mr. Daykin replied to that question in the affirmative. Senator Sloan then went on to say that he understood there is precedent in the State of Nevada for a case to be brought for hearing before it is voted upon the second time, and that he feels it is an advisory action because the opinion presupposes the approval of the public. Senator Sloan noted that the Supreme Court of Nevada would be asked not to judge on its application but on its proposed phase which might never come to fruition, as people might vote it down.

Mr. Daykin replied that this is true. He referred to a case in Elko and said that it was upon this case as a precedent that he relied that the court would consider constitutional objections to the proposal before it is voted upon, on the grounds that to allow it to be voted upon would be allowing the people to vote upon a nullity.

The Chair asked for further questions, and then asked Mr. Daykin what the action would be if this committee decided that it ought to ask the court to rule on the constitutionality of Question 6. Would a resolution out of the legislature be needed for the Secretary of State?

Mr. Daykin replied that he felt the proper procedure would be for the legislature to take whatever action it thought proper to bring

PROPOSITION SIX - (con't.)

this to the attention of the legislative commission. The legislative commission is already authorized by statute to bring any action where the official interest of the legislature is involved. But what he would recommend procedurally would be a concurrent resolution of the legislature directing the legislative commission to bring this action in an appropriate form to obtain, if possible, the determination of the constitutionality of Question 6 before it is submitted to the voters. He added that it would be necessary to explore exactly how to frame the action before bringing it, because if it could be taken on original jurisdiction, that would be quicker.

Senator Dodge apologized for not being in at the outset of the discussion. He asked if this process just described by Mr. Daykin, would result in a final judicial determination prior to the time that the question came to ballot.

Mr. Daykin answered that whether it would be possible to get final determination from the Supreme Court of the United States would depend largely upon whether the Nevada Supreme Court had taken it speedily as an original question or not. On the ERA, it did reach the United States Supreme Court but only on an emergency basis. Usually it takes at least a year to get a question determined in this high court, and even though there could be a gain of four months in Nevada, as previously mentioned, it still would not be a full year. If the Nevada court would take original jurisdiction, then he feels there would be time and if it were possible to move rapidly before this court, there still might be time.

The Chair asked for further questions.

Senator Kosinski asked, to get the issue before the court, would not the Secretary of State have to be involved? Mr. Daykin replied the action would be brought, in whatever form, against the Secretary of State, to enjoin him from placing the question on the ballot. Senator Kosinski then asked if the Secretary himself would have to take any positive action. Mr. Daykin replied that he would not, he would present it to the Attorney General, or someone upon his behalf.

The Chair called for any other questions. There being none, the Chair thanked Mr. Daykin and his testimony was concluded. The Chair announced that the committee would take the matter under advisement.

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S.B. 488 - Increases tax on motor vehicle fuel and special fuel to provide for construction of highways.

The Chair asked if it was S. B. 419 they had considered before. Senator Kosinski replied that this bill (S. B. 488) is limited to construction, and Senator Glaser said that S. B. 419 was a maintenance bill. Senator Dodge said that Senator Keith Ashworth's bill was a percentage bill. Senator Glaser said they were to amend that bill and put it on the ballot. Senator Dodge said the bill they discussed previously was Senator Keith Ashworth's recommending a percentage tax. Senator Glaser agreed but said the committee changed that to put 2¢ on it, and that is S.B. 419.

The Chair then said this bill, S. B. 488, is strictly for construction, and called on Mr. Joe Souza of the Nevada State Highway Department, to testify. Mr. Don Crosley, also of the Nevada State Highway Department, assisted in the testimony.

Mr. Souza stated that S. B. 488 is one of the two that they hoped would be proposed. He said that right at the present time, he feels their needs are in maintenance.

Senator Glaser asked if the state is responsible for construction on secondary roads--are there any federal funds for this? Is there some funding on primary and secondary roads?

Mr. Souza replied that there is some funding but not very much. Senator Dodge asked Mr. Souza where his department is currently with the money committees. Mr. Souza replied that they hadn't heard anything on equipment or building funds yet.

There was discussion on overlay costs and the overlay strip for the "Sunnyside Cutoff," which is south of Ely. Mr. Souza said they are in the last stages of construction there and there are 31 miles that have not been paved. He said they are planning on paving 16 miles of it, and the last 15 miles later. He said what they wanted was to have a program that would get it "out of gravel" and pave the entire length.

Senator Glaser said that the big difference between S. B. 488 and S. B. 419 is that in S. B. 419 on line 10, the 4.5 has been bracketed out and 6.5 has been inserted. In S. B. 488, a new section has been added on line 13 which would put in 2¢ per gallon tax for highway construction only.

Mr. Dan Crosley, State Highway Department, said it would be a question of interpretation whether an overlay program would be considered construction.

Senator Dodge then asked if the highway department received any federal money for overlay and Mr. Crosley said no. Senator Dodge then noted that overlay was charged to maintenance. Mr. Souza added that the 2¢ could be applied to their federal match. Senator Dodge said that on their overlay program, it is actually maintenance money.

S. B. 488 - (con't.)

The Chair called for any other questions on S. B. 488. There being none, he then thanked the witnesses. The Chair asked if there was any other testimony to be presented on S.B. 488. As there was none, the Chair stated that they would temporarily lay S. B. 488 aside for now. No action was taken on Senate Bill 488.

S.B. 481 -Provides property tax credit for bicycle racks, imposes additional fuel tax to finance construction of bicycle pathways and proposes to remove sales and related taxes from bicycles.

The Chair called upon Senator Wilbur Faiss to speak regarding this bill.

Senator Faiss read a prepared statement regarding bicycle paths. (See Exhibit "B"), and a letter from a constituent (Exhibit "C").

The Chair then asked Senator Faiss if he would object if the committee amended his bill to include, along with exempting bicycle racks, hitching posts in front of local saloons. Senator Faiss replied that he wouldn't object and that it would be a great help in Elko, he was sure.

The Chair said that he noticed on the fiscal note that it is indicated that bicycle racks are presently exempt. Senator Faiss then said that if this is true, the exemption is not necessary in S.B. 481. Senator Glaser replied that it would be so unless counties began to put bicycle racks on the assessment rolls in the future, and then it would be a protection. (Exhibit "D")

Senator Glaser thanked Senator Faiss for his testimony and asked if there was anyone else to testify on S. B. 481.

Mr. Cliff Young, Jr., introduced himself as a University of Nevada student who has long been associated with the promotion of bicycle riding and attendant facilities. He referred to essays which he had passed out on "Why Bicycle Facilities" and "Funds for Bikeways." (See Exhibit "E"). He said that there are over 250,000 bicycle owners in the state and referred to the problems of safety. He cited factors that would increase household use of bicycles in the Reno area and said that bike paths are the most preferred additional facility desired in Washoe County.

Mr. Young then addressed the amendments that he feels are necessary in S. B. 481. Starting with Section 6, up to the word "transportation," he feels that the words "and recreation" should be added after "transportation," in order for certain funds to be available for matching grants. He added that he would like to propose a substitution, using the work "bikeway" instead of "pathway" throughout

S. B. 481 - (con't.)

the bill so it falls in line with the Bicycle Transportation Act of 1977.

Mr. Young said he had talked with Mr. Souza of the highway department and that Mr. Souza indicated that perhaps the two bills, S.B. 488 and S. B. 481, should be combined. Senator Faiss is also in favor of this action. Mr. Young said he would make a proposal that Section 6 of S. B. 481 be adjoined to S. B. 488.

Mr. Young went on to discuss bicycle racks, parking, and assessed values. He displayed the Governor's Proclamation declaring the week of April 22-28, 1979, as Bicycle Week in Nevada.

The Chair was assumed by Senator Dodge as Senator Glaser had to leave the meeting to testify on another matter in another committee.

Senator Raggio questioned Section 2 concerning bicycle racks and said he thought there should be some criteria or standards of definition for bicycle racks, as almost any type of stand could now be construed as a bicycle rack. There was a brief discussion on this subject.

The Chair called for any other questions on this bill, and for further testimony.

Mr. Souza then addressed the committee. He said that the one-half cent that would be assessed in this bill would bring in around 2.4 million dollars and that amount of money would overlay many miles of highway. He said it would construct about 1875 miles of bikeway. He continued that his concern was that he could not support a one-half cent tax increase for bikeways when there are roadways that are falling apart.

Senator Dodge asked Mr. Souza what he is doing regarding planning in areas that are appropriate for bikeways. Mr. Souza said that his department has to be involved in the initial planning state in order to implement the additional width of the bikeways, and that his department has worked with some of the counties that have requested it. Senator Dodge then asked if there have been some bikeways built locally through local requests, and Mr. Souza replied that there had been. Mr. Souza explained the hazards of not having a proper bikeway aside from the travel lane.

The Chair called for any other questions on S.B. 481. There being none, he thanked Mr. Souza. The Chair called for any further testimony on this bill, and there was none. He thanked Mr. Souza.

No action was taken on Senate Bill 481.

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S. B. 488 -Increases tax on motor vehicle fuel and special fuel to provide for construction of highways.

Senator Dodge indicated that he did not know how much could be accomplished, as far as any action is concerned on this bill, as only four members of the committee were then present.

Senator Ashworth addressed the Chair, saying that he thought they had had a statement from the governor indicating that he would veto any bill that increased any tax whatsoever during this biennium. Senator Raggio added "unless it were put to the vote of the people," and that they had had an opinion saying the legislature could not send such a bill to the people in a referendum. Senator Dodge said that apparently Mr. Frank Daykin, Legislative Counsel, has rendered an opinion that the legislature can't get into a referendum situation.

There followed a discussion on the question of whether or not the legislature could, in fact, go to the people with a referendum. Mr. Robert Guinn, representing the Nevada Motor Transport Association, said that the point he wanted to make at this hearing is that there is a bill in the Assembly which says that the counties may submit an issue to the people for a 2¢ addition to the 2¢ that they are authorized to impose for support of construction for local roads. Mr. Daykin, Legislative Counsel, has held that an issue could not be submitted to the people on a statewide basis as a result of a United States Supreme Court decision. There was another decision that held the county could go to the people but it referred to bond issues.

Mr. Guinn said it seemed to him that one of the things that could be done would be to put the bill on the ballot and if, in the event it was defeated, there would be no problem. If it was not defeated, then the tax commission could refuse to collect the tax until there was a ruling on whether it was valid or not. At least, it would get the issue out in front of the people and see whether it could be passed or not. He is not particularly opposed to seeing the counties receive more money. He does feel there is a bad crisis situation confronting the committee with respect to protecting millions of dollars the state has invested in the highway system. But he feels the public should vote on the issues and he doesn't feel the issue is being met otherwise. The only other comment Mr. Guinn made on S.B. 488 is essentially the same as the one Mr. Souza made, and that is, if the bill is going to be processed, it should not be limited to construction, as the problem is in resurfacing.

Senator Dodge feels that there is a fundamental matter of strategy about this proposal, even assuming the needs of the highway department. He is concerned about the chances of getting the people's support. Senator Dodge said the governor has indicated that he is not about to sign a bill enacted by the legislature that would increase the tax right now, but that does not necessarily indicate his position two years from now, particularly if the need became so acute that as a matter of responsibility he had to move on the problem of the highways. Senator Dodge said that if the money committees, recognizing the need right now, gave the highway department sufficient relief to get them by for the next few years, then it would be wise to assess

S.B. 488 - (con't.)

the prospects. Senator Dodge asked Mr. Guinn for his opinion.

Mr. Guinn replied that his concern is that the Assembly Bill 750 calls for a vote of the people on a local basis, and the Senate would have to consider the bill as it comes over. He feels it would be inappropriate to let the tax go to 10¢ on the basis of meeting the governor's criteria, and then later propose raising the tax from 10¢ to 13¢. He feels that 3¢ initially is more logical than 2¢ as an increase in view of the probable leveling off of revenue from the gasoline tax to the highway department.

Senator Dodge then said the committee had thought perhaps of going back to Senator Keith Ashworth's bill on percentage for taxing. Mr. Guinn replied that he didn't know if this procedure would meet the governor's criteria or not. He does not think OPEC should set the level of fuel taxes in the United States, which would be the result of the tax was based on percentage of price.

Senator Dodge asked if the proposed Assembly bill referred to earlier was limited to construction. Mr. Guinn replied that another bill on this meeting's agenda, A. B. 549, which if the committee accepts Mr. Guinn's amendment to it, would hold it down to construction and resurfacing.

There was discussion on what bills were limited to construction. Mr. Guinn pointed out that construction includes widening, resurfacing, and similar items; it is betterment of existing highways.

Senator Kosinski asked Mr. Guinn, as a representative of his employers, if he recognized the equal need in counties for funds of this type. Mr. Guinn answered that he would express a personal opinion in saying that he thinks the counties need the money. He said his group has no objection to the counties receiving a share as long as it doesn't freeze the department of highways out. He feels the first obligation is to the people, to take care of the highway system, or it is going to be lost.

The Chair then heard testimony from Mr. Virgil Anderson, of the American Automobile Association. He said his Association feels a great sense of frustration about what can be done for the roads. He said it was also extremely apprehensive about putting a measure on the ballot. He feels Mr. Guinn's suggestion about putting the proposal on the ballot sounds like a reasonable plan. He said there is an element of priority regarding the highway system.

The Chair asked for further questions.

Senator Kosinski asked, if, in the Assembly bill, there is a voting requirement of county by county. Mr. Guinn replied that such is the case. Senator Kosinski then asked if the governor had expressed his opinion on that bill, and Mr. Guinn replied that he had not, but he felt it meets the governor's criteria. Mr. Guinn then went on to explain the bill in detail.

S. B. 488 - (con't.)

Senator Dodge asked if there were any other questions on S. B. 488.

Senator Ashworth commented that he feels the people just don't think money is needed for maintaining the highways. Mr. Guinn said the people in his industry don't like a tax; it is an increased cost but they are also aware that if something is not done, it will cost much more to conduct their businesses and maintain their vehicles due to the bad condition of the roadways.

Senator Raggio said he agrees with Senator Raggio, and that the cost of gasoline is approaching a dollar a gallon, and people will not accept an additional gas tax imposed by the legislature. Mr. Guinn said he thinks it would pass in Washoe County.

The Chair asked for any other comments on S.B. 488. There were none.

No action was taken on Senate Bill 488.

A. B. 549-Authorizes use of county motor vehicle fuel taxes for highway repair and maintenance.

The Chair called for testimony on A.B. 549.

Mr. Guinn opened the testimony on this bill. He described the bill which would broaden the use of the funds collected under the optional 1¢ and 2¢ tax. Mr. Guinn went on to say the words "renovation, reconditioning," were bracketed out on line 26 through a series of circumstances, which he described. He said his people would like to see the brackets removed so the words "renovation, reconditioning" are still in the bill. He said his concern about renovation and reconditioning is that in highway construction, these words have a very specific meaning, and so are important to the bill. He voiced a further concern that when the local entities discover what might be done on the tax bill, they will use every means they can to try to get new revenue and use general fund money for some other purpose, and use the fuel tax money to take care of their highway problems. It is Mr. Guinn's recommendation that the brackets on line 26 of A. B. 549 be removed.

There was discussion on reconditioning and resurfacing and the meaning of the words as they apply to highway maintenance. Senator Dodge asked Mr. Guinn if the bill was acceptable apart from line 26. Mr. Guinn replied that it was.

Senator Dodge then asked about, on page 3, lines 5,29, and 31, if Mr. Guinn had any problem with the insertion of the word "work," and Mr. Guinn replied that he had no problem with it. Mr. Virgil Anderson voiced the same position.

A. B. 549 - (con't.)

The Chair asked for further testimony on this bill. There being none, the Chair announced that testimony was concluded on A. B. 549.

Senator Dodge then addressed Mr. Guinn, saying, "So what you are suggesting is that we just amend the bill by removing those brackets..." and Mr. Guinn concurred.

The Chair asked for any further testimony on A.B. 549.

There being none, the Chair concluded testimony on A. B. 549.

No action was taken on Assembly Bill 549.

S.B. 490 -Exempts inventory of dealer in aircraft and equipment from property tax.

Mr.E. W. Hanmer, attorney, Alta Sierra Aveiation, testified on this bill. He said there was a high cost involved for a dealer in aircraft in maintaining an inventory over a long period of time. He cited the problems of such an inventory and said that it is an expensive proposition. He added that foreign companies have controlled the aviation business in Nevada for years but the Nevada companies are now entering into the market in a strong way. He said there are hardships imposed on Nevada dealers, however, because of the structure of the business.

Senator Glaser returned to the meeting and assumed the Chair.

There ensued a discussion of how the inventory on this particular type of business is assessed, and the procedure followed for assessing this particular commodity, together with the problems peculiar to this industry.

Mr. Hanmer said he did not know why all these years someone had not proposed a bill such as S. B. 490, with respect to aircraft, in view of the size of the product and the dollars involved. He said there is a substantial burden placed on aircraft dealers.

After a discussion of various tax credits and the constitutionality of certain exemptions, the Chair announced that the meeting would have to conclude due to the necessity of having the taxation sub committees meet, which have top priority.

The Chair asked for further comment on S. B. 490. There being none, the Chair said the committee would take S. B. 490 under advisement.

No action was taken on Senate Bill 490.

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(Committee Minutes)

S.B. 433 -Enlarges class of disabled veterans exempt from vehicle privilege tax and reduces registration fee on certain of their vehicles.

It was brought to the Chair's attention that the committee's motion had been "Amend and do pass as amended" on Senate Bill 433, so Senator Glaser said he would put it on second reading.

Senator Raggio said he would like to offer a resolution pertaining to social security. He said there is a bill pending in the United States Congress that would alleviate the situation where people who are on public employees retirement programs (or their spouses) would be penalized and their social security benefits diminished to the extent that their spouse receives retirement under the public employees program. Senator Raggio said he would like to get permission of the committee to get the resolution drafted and processed.

The Chair said that would be agreeable to the committee.

There being no further business, the meeting adjourned at 4:00 P. M.

Carolyn L. Freeland
Respectfully submitted by:
Carolyn L. Freeland, Secretary

Norman Glaser
Approved by: Senator Norman Glaser,
Chairman

SENATE TAXATION COMMITTEE

GUEST LIST

DATE: April 24, 1979

NAME	AGENCY OR ORGANIZATION
Wilbur Faiss	Senator, District 2, Clark County
E. W. Hanmer	Attorney, Alta Sierra Aviation
J. H. Curett	Sales Manager, Carson-Tahoe Aviation
Virgil Anderson	American Automobile Association
Frank Daykin	Legislative Counsel
Robert F. Guinn	Nevada Transport Association
Joe A. Souza	Nevada State Highway Department
Cliff Young	University of Nevada-REno Legislative Intern
Don Crosley	Nevada State Highway Department
Ray Corsby	Disabled American Veterans

BICYCLE PATHS - S.B. 481

I FEEL THIS BILL IS ONE OF THE MOST IMPORTANT TO BE INTRODUCED AT THIS SESSION OF THE LEGISLATURE. IT PERTAINS TO A LARGE SAVINGS OF ENERGY -- HEALTHFUL RECREATION -- AND WILL CERTAINLY AID THE FIGHT AGAINST POLLUTION, BOTH NOISE AND AIR.

THE CONGRESS OF THE UNITED STATES HAS CONDUCTED A STUDY RELATIVE TO THE POTENTIAL OF BICYCLING AS AN ENERGY CONSERVATION VEHICLE. THE FINDINGS OF THAT STUDY ARE: CONGRESS RECOGNIZES THAT BICYCLES ARE THE MOST EFFICIENT MEANS OF TRANSPORTATION, REPRESENT A VIABLE COMMUTING ALTERNATIVE TO MANY PEOPLE, OFFER MOBILITY AT SPEEDS AS FAST AS THAT OF CARS IN URBAN AREAS, PROVIDE HEALTH BENEFITS THROUGH DAILY EXERCISE, REDUCE NOISE AND AIR POLLUTION, ARE RELATIVELY INEXPENSIVE AND DESERVE CONSIDERATION IN A COMPREHENSIVE NATIONAL ENERGY PLAN.

I NOW REFER TO STATEMENTS MADE BY UNITED STATES SENATOR H. JOHN HEINZ, REPUBLICAN FROM PENNSYLVANIA:

"MUCH OF THE NATION'S GASOLINE CONSUMPTION HAS BEEN IN URBAN AREAS OVER SHORT DISTANCES. PRIVATE AUTOMOBILES IN URBAN AREAS USED 35 BILLION GALLONS OF GASOLINE IN 1970; 60% OF THOSE TRIPS WERE 2-1/2 MILES OR LESS."

FEDERAL HIGHWAY ADMINISTRATION FIGURES INDICATE THAT 43% OF URBAN TRIPS BY AUTOMOBILE ARE FOUR MILES OR LESS. THIS KIND OF TRAVEL IS EXCEPTIONALLY WASTEFUL. MIRACULOUSLY, THERE IS AN ANSWER TO THIS WASTE AND AGGRAVATION, AN ANSWER WHICH NOT ONLY SAVES GAS AND REDUCES TIME WASTED COMMUTING, BUT WHICH IMPROVES PUBLIC HEALTH AND PHYSICAL FITNESS IN THE PROCESS. THAT ANSWER IS BICYCLES!

BICYCLE PATHS - S.B. 481
PAGE 2

A 1974 STUDY AT THE OAK RIDGE NATIONAL LABORATORIES ESTIMATED THAT BY SUBSTITUTING BICYCLE USE FOR AUTOMOBILE USE IN 6% OF THE TRIPS OF 1 TO 5 MILES, THE ANNUAL FUEL SAVINGS WOULD BE 827 MILLION GALLONS. THIS IS NO SMALL SAVINGS.

I HAVE A LETTER FROM A RESIDENT OF SENATE DISTRICT NO. 3 IN CLARK COUNTY WHICH I WOULD LIKE TO READ:

SEE EXHIBIT "C"

April 17, 1979
6421 West Circle Dr.
Las Vegas, Nevada
89103

Senator William Fisco
Nevada State Senate
Legislature Building
Carson City, Nevada
89710

Dear Senator Fisco,

We are a bicycling family for both pleasure and necessity. We use our bicycles for errands in our immediate vicinity. We would use our bicycles a great deal more but our roads are terrible. My brother and I work at and attend the University but the major roads we would use, Tropicana and Spring Mountain, are too dangerous. The lack of a decent mass transit system and safe bike paths force us to drive. My brother and I are cool and that helps the energy problem. Designated bike path streets are also dangerous. Maryland Parkway is marked by bike path signs but the motorists don't care. Fire-catching drains and flooded corners add to the problem. Proper bike paths in this city would lower traffic congestion and air pollution, plus make for a healthier population. We approve of the half-cent tax increase on gas. Even though it's another increase, the benefits outweigh the cost. We thank you for your positive approach and hope your bill is successful.

Thank you from your concerned cyclists
Lionel Wagon N.C. Kueyuf

FISCAL NOTE

BDR 32-1740
A.B.
S.B. 481

EXHIBIT "D"

• STATE AGENCY ESTIMATES Date Prepared April 23, 1979

Agency Submitting DEPARTMENT OF TAXATION

Revenue and/or Expense Items	Fiscal Year 1978-79	Fiscal Year 1979-80	Fiscal Year 1980-81	Continuing
State	NONE	\$15,000	\$18,000	
Schools		7,500	9,000	
Counties and Cities		3,750	4,500	
Total	NONE	\$26,250	\$31,500	YES

Explanation (Use Continuation Sheets If Required)

Local Government Impact YES NO
(Attach Explanation)

Signature _____
Title JEANNE B. HANNAFIN
DEPUTY EXECUTIVE DIRECTOR

• DEPARTMENT OF ADMINISTRATION COMMENTS Date _____

Signature _____
Title _____

• LOCAL GOVERNMENT FISCAL IMPACT (Legislative Counsel Bureau Use Only) Date _____

Signature _____
Title _____

Provides property tax credit for bicycle racks, imposes additional fuel tax to finance construction of bicycle pathways and proposes to remove sales and related taxes from bicycles.

1. Property tax on bicycle racks.

No fiscal impact as there are no bicycle racks on the assessment rolls in any county at the present time.

2. Increase fuel tax by one-half (1/2) cent per gallon.

1979/80	1980/81
\$2,755,067	\$2,974,922

This estimate based on our projection of increased gallonage and was made some months prior to the current gas shortage.

3. Remove sales tax on bicycles.

It is difficult to find out how many bicycles are sold in Nevada in a year as we have no quick way to isolate bicycle sales from other sales in the various stores in the State that sell bicycles as well as large lines of general merchandise. We have made an estimate on a statewide basis of 10,000 new bicycles sold each year at an average cost of \$75.00.

	1979/80	1980/81
State	\$15,000	\$18,000
Schools	7,500	9,000
Local Governments	3,750	4,500
TOTAL	\$26,250	\$31,500

WHY BICYCLE FACILITIES

Bicycle riding has the highest participation rate of recreational activities for people in Northern Nevada,¹ and it is a viable alternate means of transportation. The number of people propelling a "two wheel device" by muscle power has reached unprecedented magnitude. For the first time since World War I, cycles are outselling automobiles.² In the Truckee Meadows area alone there are 6,500 people buying new bicycles annually.³ It is estimated that there is one bicycle for every two people in the United States.⁴ Accordingly, it is not surprising that bicycle paths are the most preferred additional facility people in Washoe County would like to see provided.⁵

Gone are the days when the bicycle becomes an exiled "toy" sometime between kindergarten and acne. The largest portion of new cyclists are adults. Conservation and the high incidence of circulatory and cardiac diseases have caused life styles to be reappraised. The public is beginning to demand measures be taken by government to represent their health.

Congress recently recognized in the National Energy Act (Sec. 262) that "bicycles are the most efficient means of transportation, repre-

¹ The NV Division of State Parks, Nevada State-wide Trails Study, August, 1978 p. 9 (Region I includes Washoe, Storey, Carson City, Douglas, and Lyon Counties)

² Kanfer, Stefan "The Full Circle: In Praise of the Bicycle," Time, April 28, 1975 p.61

³ Hanford, Bob The City of Reno Bicycle Council Meeting, Jan. 25, 77

⁴ Barton-Aschman Associates, Inc. Bicycling in Tennessee: Inventory of Users, Facilities, and Programs. September 1974

⁵ Community Environment Association, Open Space Plan & Program for the Washoe Council of Governments, December of 1974 p.28

sent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefits through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan."

"The bikeways systems concept could have a valuable role in altering the public attitudes towards energy consumption."⁶

"A study conducted by the Ford Foundation estimated that 14 to 23 percent of the energy consumed in this country is used by automobiles, and at least 50 percent of automobile travel is less than five miles in distance. The U.S. Department of Transportation has estimated that, if five percent of the motorists using cars for 2.5 to 3.5 mile trips would convert to bicycles, 12.5 billion gallons of gas would be saved each year" (over 750 million yearly).⁷

There is question whether the automobile and the bicycle are compatible road fellows. A vast majority of bicyclists are ordinary riders, many not physically nor psychologically capable of coping with heavy urban auto traffic. When matched against hurried motorists who are seldom sympathetic, cyclists have a right to be scared.

The asphalt corridors are overburdened, and the road shoulders are poorly maintained. Accident statistics confirm that cities are becoming a more dangerous place to live. "If Washoe County vehicle registrations continue to escalate as they have this past year, each day there will be 43 more cars and trucks, or for each month a total of 1,314 vehicles,"⁸

⁶ Cowperthwaite, David R. Nevada Department of Energy, October 4, 78

⁷ Koch, Edward I., U.S. Representative, New York City, "Bicycles and Legislation," The Bicycle as a Transportation Mode, 1976 p. 11

⁸ Barber, Phil Nevada State Journal, October 10, 1978 p. 11

The number of bicycle accidents is alarming. During 1976 in Nevada there were 266 accidents,⁹ excluding the majority of bicycle "spills" that go unreported when no motor vehicle is involved. The signs and stripes of bicycle lanes help alert motorists to be conscious of bicyclists; they guide riders to non-congested roadways, and separate the slower moving bicyclist so as not to impede the flow of traffic.

Of the factors that would increase the use of bicycling, a more adequate bikeway system was considered foremost.¹⁰ Most people feel that local bikeways are not extensive enough. One-third of the persons who bicycle for non-recreational purposes would go one mile or more out of their way to use a bicycle path.¹¹ People who cycle for pleasure often "pack up" the bicycle and drive to a suitable location where it is safer to ride.

Are bikeways that much better to ride on? Some of the poorly designed off-street prototypes may have a higher incidence of accidents actually, but on-street facilities (lanes and routes) have two and one-half times fewer accidents per bicycle travelled mile than unmarked major and minor streets.¹² Bicycle-auto collisions result in serious injury about 90 percent of the time.¹³

⁹ State of Nevada - Department of Highways Planning Survey Division Highway Safety Section Summary 1 of Accidents Involving Pedalcyclist

¹⁰ Powell, Bruce The Demand for Bicycling in the Reno-Sparks, Nevada Area, WICHE 1974 p. 23

¹¹ Ibid., Powell p. 27

¹² Kaplan, Jerrold A. "Riding Patterns of the Regular Adult Bicyclists" Transportation Engineering, July 1977 p. 40 (Vol. 47, No. 7)

¹³ Ibid., Dept. of Hwys

FUNDS FOR BIKEWAYS

The purpose of this report is to identify Nevada's greatest sources of state and Federal funding for bicycle facilities, to define what bikeway funds can buy and how appropriations are administered.

There are numerous departments of the Federal government with jurisdiction over gearing policy towards creating bicycle facilities. So many agencies are involved, getting to know them is like unscrambling alphabet soup: HUD, OST, DOT, HCRS, FHWA, and so on!

Incentives are available in the form of reimbursements up to a designated portion of development expenditures. Local government bears the responsibility to cut through the "red tape" concealing which appropriations are authorized and available. It would be easy for even a steadfast administrator to become disillusioned deciphering the bureaucratic gobbledeygook on how to get the money out of the "bank" for a bikeway. Fulfilling the required ingredients of a plan, meeting the time frame, and knowing who to contact are the basics to receiving matching funds.

Because bicycles can be used for both recreation and transportation, the Department of Transportation and the Department of Interior, under the Bureau of Outdoor Recreation, are the largest Federal supporters of bikeways. A project funded with BOR Land and Water Conservation funds requires recreation to be its major objective, while one funded with DOT Federal Highway Administration funds should be primarily for transportation. A planner must be flexible enough and willing to revise his proposal to reflect the program's emphasis.

The Department of Transportation has researched safety and operational problems which bicyclists encounter and published guidelines to assist in the planning, development, and construction of bicycle facilities. Recently a comprehensive "digest" of various manuals was assembled.¹ The DOT's uniform guidelines for bikeways are used by many projects.

In carrying out responsibilities of the Federal-aid Highway Act(s), the FWA apporitions designed to fund the states. FWA restricts the maximum proportion of federal-aid available for approved projects, 5:5 matching funds, because 86 percent of the land is in public domain.²

To meet the increasing need and desire for bicycle trails, the FWA approved providing bikeways separate from, or joined with Federal-aid highway projects "whenever conditions are favorable and a public need is served."³ The 1972 act differs from the one two years prior by establishing a categorical grant specifically for bicycle programs.⁴ Earlier programs (under Section 217) were put in direct competition for the same dollars as highways. The new "Bikeway Bill" funds projects at a rate of \$20 million per year from the Highway Trust Fund, the monies to remain available until expended (Sec. 134e).

¹ The Maryland DOT State Highway Administration, A Bikeway Criteria Digest; The AICD's of Bicycles, FHWA-TS-77-201

² See, Kenneth L., Division Planning Engineer of the Federal Highway Administration, Region 3, 285-5232

³ U.S. DOT FWA Bicycles & Pedestrian Facilities in the Federal-aid Highway Program, 1974 (2nd Edition, August 1977)

⁴ "The Perennial Bikeway Bill," Bicycle Forum, Fall 1973 p. 48

The Department of Interior's Bureau of Outdoor Recreation, now referred to as the Heritage Conservation and Recreation Service (HCRS), allocates \$750 million in fiscal year 1971 for grants to acquire and develop recreation facilities, including bikeways. These funds are authorized by the Land and Water Conservation Fund Act of 1965, which will be effective until 1990.

The administrator of State Parks was assigned the responsibility of accepting and disbursing funds (PFS 497.206). A Statewide Comprehensive Outdoor Recreation Plan (SCORP) is submitted to HCRS for approval. Bikeways must be included in the SCORP.⁵ The Nevada Statewide Trails Study (August 1979), by the State Parks Division, recognizes bicycle riding as the favorite recreational activity of Northwestern Nevadans.

An important element of the HCRS program is the availability of technical assistance in the preparation of grant applications. According to John Richardson, NV Div. of State Parks, bikeways deserve priority under his staff, but the local communities are negligent in submitting specific plans, so grant applications for bicycle facilities are not initiated.

Land and Water Conservation Funds also have an advantage over some other Federal funding programs in the applicability to a variety of facility types. An example that sets important precedent for future multi-purpose facilities was the construction of a velodrome in East Point, Georgia. The oval bicycle racing track has an infield designed for joggers. The project has proved itself as suitable for both casual and world class athletes.

⁵ Public Law 90-543, the National Trails System Act of 1968

STATE AID FOR BICYCLE CONSTRUCTION

The state of Nevada has enacted legislation on several occasions to encourage bikeway construction. In each case political subdivisions are responsible to plan, develop and administer such projects. Full coordination with local interests is necessary because bikeways are predominantly of local significance, so they should reflect the desires of the community to the maximum degree possible.

The "Bicycle Pathways Act" adopted in 1979 was the first bill to foster the construction of bicycle facilities in Nevada.⁶ Although the legislature envisioned that local authorities would assume the responsibility to submit plans, the time frame, within which conditions should have been met before the money was reallocated to other projects, left many communities, including Reno, unable to seek reimbursements.

Numerous hearings have shown strong support for the construction of a progressive bikeway system. So far Reno residents have received only a couple of superficial bike route markings. Reno never spent one dime of the \$10,000.00 state grant allocation that was appropriated to the community out of the \$250,000.00 act. Responsible local officials waited too long without resolving various problems hindering bikeway progress. Inclusion about which plans reserved priority was a problem. No other projects have been given an equal status. The state has been unable to provide any have been shifted.

6. NRS 407.211-217 defines powers and duties of the system

...the whole cost of such a construction shall be paid from a gasoline tax now in construction. This law has been followed by New York, Maryland, Washington, and California. The act in Oregon, N.B. 1938, states, "...Bicycle trails should be established wherever a highway, road, or street is being constructed. Funds received from the State Highway Trust Fund may be used for maintenance of such trails; to establish trails along other highways. . . . and as parks and recreation areas. . . . The amount expended by the commission. . . shall never in any one fiscal year be less than one percent of the total amount of funds received from the highway fund."

The Nevada Constitution (Article 9, Section 4) states the "Proceeds from imposition of any excise tax on gasoline or other motor vehicle fuel shall. . . be used exclusively for the construction, maintenance and repair of the public highways of this state."

Nevada has a six cent state gas tax (NRS 289.100), and Washoe County imposed an additional two cent tax (optional under NRS 279.070) which goes into Regional Street and Highways and is accounted for under a separate fund used basically to retire revenue bonds.

The words "construction, maintenance and repair" in the aforementioned section of Nevada's Constitution have been construed by the legislature as broad enough to include the construction of roadside improvements and landscaping (NRS 408.100). The legislative intent includes eliminating congestion, reducing accident frequency and taking necessary steps to insure safe and convenient transportation.

While the draftsmen of the Nevada Constitution may have intended a strong antidiversionary clause as regards the funds from gasoline taxes, the legislature later broadened applicable uses. For example, highways are defined as "every way or place of whatever nature open to the use of the public for purpose of traffic" (NRS 366.030).

Bikeways could easily fall under "highways" and perhaps as a roadside improvement to reduce accidents, too. According to Gene Phelps, Nevada Highway Department Business Manager, bicycle facilities could technically be funded by highway dollars.

"The public has a right . . . to prepare and reserve the whole or a part of a highway for special forms of travel; and such cannot be deemed additional servitudes. Accordingly, it is within the purpose of the general (highway) easement . . . to construct and maintain a sidepath for bicycles . . ." ¹⁰

The Bicycle Pathways Act further defines the use of funds to establish bicycle paths along highways. The term "along" does not require a pathway to be contiguous with the boundaries, nor imply necessary contact to the side of a highway. ¹¹

Although bikeways may legally be constructed by NV Highway Trust funds as "incidental features" concurrent with highway projects, as a practical matter it is not likely to happen. The State Highway Dept. is projecting a \$71 million deficit annually for the next twenty years. ¹²

¹⁰ Ryan vs. Preston, 59 App Div 97 69 NYS 100. American Jurisprudence, "Eminent Domain" Sec 208 p. 891

¹¹ Sweet vs Irrigation Canal Co., Or., 256 Pacific Reporter 2nd p. 32

¹² Crosby, Don Deputy Highway Engineer, "State Hwy Brd Facing Huge Shortage of Funds" Nevada State Journal, Dec. 6, 1978 p. 21

If the proposed addition of three cents on the gallon to the gasoline tax is ratified, bikeways may have a chance to be funded by the NV Highway Division. This decision is upto the discretion of the Highway Engineer (Joe Souza) and the State Highway Board, composed of the attorney general (Bryan), the governor (List), and the controller (McGowan). A strong coalition of bicyclists might be able to convince the Board of the need to develop bikeways.

Another approach toward making bicycling a "legitimate" priority of state staff would involve changing the designation of the Highway Dept. to the Dept. of Transportation.¹³ This would broaden its scope of activities.

The ultimate responsibility to plan and develop bikeways is on the local government. Bicycle facilities must be initiated by the community they serve. In Reno, the money or land dedicated by new subdivisions for parks in that region (Ordinance 2185, Chapter 16.09.050) may be spent on bikeways.¹⁴ Sparks has designated an account earmarked for bikeways called the "Bicycle Path Grant Trust Fund" (Resolution 1045) to accept gifts, grants, or bequests. In summary, the potential is there to be utilized.

Just because matching funds are available does not mean that a project is right, desirable or feasible. However, too often public officials act along lines of initial "visions" and neglect investigating other issues. Matching funds encourage local government decision makers to examine utility of projects proposed.

To quote Ralph Hanneman, from the Department of Interior, "It is a wonder there are any bike riders in this country at all, because so little has been done for them and so much against them."

P.S. I did check the annotations to NRS. Not much applied.

For example; "Public highway" defined, Gibson v. Mason 5 Nev 263
(1869) Railroads are included as public highways.

"highway" defined, Boardman v. Lake 8 Nev 276 (1873)
concerning the toll bridge across the Truckee

The following are footnotes that retyping did not allow space at
the bottom of pages six and eight.

- 8 Georgia Institute of Technology, The Emerging Needs of Bicycle
Transportation, 1973 p. 9
- 9 Balshone, Bruce L. Bicycle Transit; Its Planning and Design,
1975 p. 148
- 13 Hoffman, William H., State of Nevada Department of Highways
- 14 Bradhurst, Stephen T., formerly with the Regional Planning Com.

*California
Nevada
Utah
Idaho*