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**REPORT TO THE 72ND SESSION OF THE NEVADA LEGISLATURE
BY THE LEGISLATIVE COMMITTEE FOR LOCAL
GOVERNMENT TAXES AND FINANCE**

I. INTRODUCTION

The Legislative Committee for Local Government Taxes and Finance is a statutorily created committee of the Nevada Legislature that consists of eight members. The Senate Majority Leader and the Speaker of the Assembly each appoint four members from their respective houses. Two of the members from each house must be selected from the membership of each of the respective standing committees on government affairs and taxation. The Committee consults with an 11-member advisory committee consisting of the Executive Director of the Department of Taxation and 10 other members appointed by groups representing local governments and representing various geographical areas of the State of Nevada. Pursuant to NRS 218.53884, the Committee is also required to appoint a subcommittee to study the cost to counties and cities of maintaining highways, roads, and streets and the practices of the counties and cities in maintaining those highways, roads, and streets. A copy of the statutory provisions that create and set forth the power and duties of the Committee (NRS 218.5388 to 218.53886, inclusive) is provided in Appendix A.

A. COMPOSITION OF THE COMMITTEE

The Senate Majority Leader and the Speaker of the Assembly appointed the following eight legislators to the Legislative Committee for the 2001-03 biennium:

Assemblyman David R. Parks, Chairman
Senator Ann O'Connell, Vice Chairwoman
Senator Terry Care
Senator Mike McGinness
Senator Joseph M. Neal, Jr.
Assemblywoman Vivian L. Freeman
Assemblyman P.M. Roy Neighbors
Assemblywoman Sandra Tiffany

The following persons were appointed to serve as members of the Advisory Committee and the Subcommittee to Study the Cost to Counties and Cities of Maintaining Highways, Roads and Streets and were serving in those positions at the time of this report:

Guy Hobbs, Advisory Committee Chairman, Managing Partner of Hobbs, Ong & Associates
Marvin Leavitt, Representative of Various Local Governments, Subcommittee Chairman
Michael Alastuey, Committee on Local Government Finance
Bob Anderson, Director of Fiscal Services, Carson City School District

Charles Chinnock, Executive Director, Nevada Department of Taxation
Janet Murphy, Administrator, Tahoe-Douglas Improvement District (designee
of Ross Swickard)
Linda Ritter, City Manager, City of Elko
John Sherman, Director of Finance, Washoe County
Claudette Springmeyer, Comptroller, Douglas County
Terri Thomas, Director of Finance, City of Sparks
Philip F. Stoeckinger, Finance Director, City of North Las Vegas

The following persons also served on the Advisory Committee and the Subcommittee to Study the Cost to Counties and Cities of Maintaining Highways, Roads and Streets during a portion of the 2001-03 biennium:

Bruce R. Brooks, Comptroller, Humboldt County
Richard Kester, Director of Business Services, Douglas County School District
David P. Pursell, Executive Director, Nevada Department of Taxation (retired)

Legislative Counsel Bureau (LCB) staff services for the study were provided by Rick Combs, Deputy Fiscal Analyst, Fiscal Analysis Division; Ted Zuend, Deputy Fiscal Analyst, Fiscal Analysis Division; Kim Marsh Guinasso, Principal Deputy Legislative Counsel, Legal Division; William Keane, Principal Deputy Legislative Counsel, Legal Division; Carol Thomsen, Interim Secretary, Fiscal Analysis Division and Joi Davis, Office Manager, Fiscal Analysis Division. During the course of the 2001-03 biennium, Kevin Welsh, Deputy Fiscal Analyst, Fiscal Analysis Division, also provided staff services.

B. OVERVIEW OF COMMITTEE PROCEEDINGS

The Committee conducted six meetings. Four of the meetings were held in Las Vegas with videoconferencing to Carson City and two of the meetings were held in Carson City with videoconferencing to Las Vegas. The Advisory Committee and the Subcommittee to Study the Costs to Counties and Cities of Maintaining Highways, Roads, and Streets each met five times.

During the course of its work, the Committee considered testimony from members of the Advisory Committee and the Subcommittee to Study the Costs of Maintaining Highways, Roads, and Streets and various other representatives of local governments, including school districts and general improvement districts. The Committee received a report regarding the condition of Nevada's roads and bridges from The Road Information Project, which is a transportation research firm from Washington, D.C. The Committee also heard testimony from representatives of the Nevada Taxpayer's Association, regional transportation commissions, and a group studying methods to improve the economies of rural areas in Nevada. Representatives of the Nevada Department of Taxation and the Nevada Department of Transportation (NDOT) provided expert testimony to the committees throughout the biennium.

During its meetings the Committee voted to approve 10 requests for bill drafts for consideration by the 2003 Legislature in a number of areas affecting local government finance. The proposed legislation includes technical changes to the consolidated tax distribution and intercounty fuel tax formulas, indexing of the gasoline tax rates for inflation, revisions to the statutory cap on property tax rates imposed by local governments, requirements to ensure that local governments continue to receive utility revenues in a deregulated utility market or when a public utility is acquired by another local government, the authorization of tax increment financing by local governments, allowing a jurisdiction that operates an airport to impose the current optional tax on aircraft fuel, technical adjustments to the manner in which the governmental services tax is distributed and the manner in which tax revenue is pledged by special districts for the payment of debt, and amendments to the manner in which the Advisory Committee conducts its business during the 2003-05 biennium.

The information included in this report provides a general overview of the complex issues and information considered by the Legislative Committee in formulating its recommendations for legislation to be considered by the 2003 Legislature. For more detailed information please review the minutes and exhibits from the Committee's meetings, which are available from the LCB's research Library. The minutes, excluding the exhibits, and a copy of this report are available electronically on the Legislature's Internet Web site at www.leg.state.nv.us.

II. RECOMMENDATIONS FOR THE 2003 LEGISLATIVE SESSION

During the course of the Committee's work during the 2001-03 biennium, the Committee approved 10 requests for bill drafts to be considered by the 2003 Legislature. The issues the Committee discussed and the recommendations that resulted from those discussions are detailed below.

A. RECOMMENDATIONS REGARDING FUEL TAX REVENUES

The Committee approved two bill draft requests regarding fuel taxes. The first bill draft request addresses four distinct concerns with respect to motor vehicle fuels. The second bill draft request addresses a concern with respect to the imposition of optional taxes on fuel for jet or turbine-powered aircraft and aviation fuel.

1. Draft Legislation to index state and local gasoline tax rates to a five-year average of the change in the Consumer Price Index, but ensure that gasoline tax rates do not increase by more than four percent in any given year. (BDR 32-622)

The Subcommittee to Study the Cost to Counties and Cities of Maintaining Highways, Roads and Streets conducted a study of the funding available for highway construction and maintenance projects and the adequacy of those funding sources. The Subcommittee heard testimony from representatives of NDOT and considered a

report presented by The Road Information Project, which is a transportation research firm from Washington, D.C.

Representatives of NDOT provided information regarding the tendency of highway construction costs in Nevada to rise gradually over time and the tendency of fuel tax rates in Nevada to remain flat for many years with occasional extreme increases to catch up with the consistent increase in construction and maintenance costs. Agency representatives provided information comparing the gasoline tax rates in Nevada since 1955 to the present and projected from the present to 2007 to the inflation-adjusted rate for that same period. A table including that information is included in Appendix B. The table shows that gasoline tax rates tend to keep pace with or exceed inflation for a short period immediately after a rate increase; however, the rate eventually falls behind and continues to trail inflation until the next rate increase.

At the June 24, 2002 meeting of the Legislative Committee, Paul Haaland, Associate Director of Policy and Research for The Road Information Project presented a report entitled "Meeting Nevada's Future Mobility Needs: A Report Card about the Condition, Use and Safety of Nevada's Systems of Roads and Bridges." A copy of the report has been included in Appendix C. The report assigned the following grades to Nevada's road and bridge system:

Roads	B
Bridges	B+
Congestion	D+
Safety	C-
Funding	C-

The report concluded that the investment in road and bridge improvement projects throughout the state is:

"[T]hreatened by an eroding state motor fuels tax and current Congressional proposals to reduce federal highway funding to the states by 10 to 15 percent nationally."

Based on the information presented to the Subcommittee, members considered three methods that could be used to index the gasoline tax rate to inflation. After considering proposals to index the tax rate to the Federal-Aid Highway Construction Index, the wholesale price of fuel, and the Consumer Price Index (CPI), the Subcommittee recommended that the Legislative Committee approve a bill draft request to index the state and local gasoline tax rates to the CPI. The Subcommittee believed that increases and decreases in the CPI would be less volatile than the other two methods of indexing and that the CPI was a measurement with which most Nevadans were familiar.

The Legislative Committee approved the Subcommittee's recommendation for a bill draft request to:

- Index gasoline tax rates to a five-year moving average of the CPI.
 - Require the first measurement of the CPI on December 31, 2003 and implement the first adjustment for the fiscal year beginning July 1, 2004.
 - Prohibit the increase from exceeding four percent in any one-year period, regardless of the five-year moving average of the CPI.
 - Eliminate the taxes imposed pursuant to NRS 590.120 and 590.840 from the requirement to index, since those taxes are not related to road construction or maintenance.
2. Draft legislation to adjust the intercounty fuel tax distribution formula so that the formula is based two-thirds on population and one-third on roadway mileage and holds harmless counties that would lose revenues under the formula by taking a proportionate share of the gains received by the counties that receive additional revenues under the formula and distributing that proportionate share as necessary to ensure that counties do not lose revenues. (BDR 32-622)

Current Formula

Prior to the enactment of Senate Bill 557 by the 2001 Legislature, the motor vehicle fuel tax revenues were distributed to the counties based on a formula that placed equal weight (25 percent) on total area, population, road mileage and street mileage of nonfederal aid primary roads and vehicle miles traveled on nonfederal aid primary roads. The provisions of SB 557 replaced that formula with a formula based two-thirds on population and one-third on the road mileage and street mileage of improved roads or streets maintained by the county or an incorporated city within the county.

Because the new formula based two-thirds on population and one-third on road and street mileage would result in a loss of revenues to some counties, SB 557 included a provision providing that a county could not receive less than the amount it received in FY 2001. Under the formula enacted by SB 557 all counties would be allocated an amount identical to the amount they received for FY 2001. Next, the bill required a determination of the amount each county would receive under the new two-thirds population and one-third road and street mileage formula. Each county that would have received more under the new formula than it received in FY 2001 would be allocated a portion of the funding that was left after it received its FY 2001 allocation based on the new two-thirds population and one-third road and street mileage formula.

Recommended Amendment to the Current Formula

Members of the Subcommittee to Study the Cost to Counties and Cities of Maintaining Highways, Roads and Streets pointed out that because the formula implemented pursuant to SB 557 only allocated a small portion of motor vehicle fuel tax revenues under the new formula based two-thirds on population and one-third on

road and street mileage, the intent of the Subcommittee during the previous biennium was not being carried out. Because of the dissatisfaction with the formula enacted in SB 557, the Subcommittee began considering adjustments to the formula that would distribute a larger percentage of motor vehicle fuel tax revenues to the counties based on the new formula and would distribute a smaller percentage of the revenues based on the old formula.

Ultimately the Legislative Committee voted to approve the Subcommittee's recommendation to adjust the intercounty motor vehicle fuel distribution formula in the following manner:

- Allocate to each county its share of the motor vehicle fuel tax revenues under the new formula based two-thirds on population and one-third on road and street mileage.
 - Determine if any counties are receiving less under the new formula than they received under the old formula in FY 2001.
 - If a county receives less under the new formula than it received under the old formula in FY 2001, make an additional allocation to that county to ensure that it receives its FY 2001 allocation by reducing the share provided to all of the counties that do not receive less under the new formula than they received in FY 2001.
 - To determine the amount that should be transferred from each county that does not receive less under the new formula than it received under the old formula in FY 2001, each county that does not receive less revenue under the new formula should deduct from its allocation under the new formula a proportionate share of the difference between the revenue it received under the new formula and the revenue it received under the old formula in FY 2001.
3. Draft legislation to clarify that road mileage means the mileage from one end of a roadway to the other without regard to the number of lanes the roadway has for the purposes of the intercounty and intracounty fuel tax distribution formulas. (BDR 32-622)

At the May 16, 2002 meeting of the Subcommittee to Study the Cost to Counties and Cities of Maintaining Highways, Roads and Streets, representatives of NDOT indicated to the Subcommittee that the Roadway Systems Division of NDOT was required by law to audit all county and city miles of roadways, based on inventories provided to NDOT by the cities and counties. In order to ensure continuity in the inventories received from the local governments, NDOT requested that NRS 365.550 be amended to clarify that road mileage included in inventories provided to NDOT should be based on centerline mileage rather than lane mileage.

Based on the request from representatives of NDOT, the Legislative Committee approved the Subcommittee's recommendation to submit a bill draft request to clarify

that road mileage means the mileage from one end of a roadway to the other without regard to the number of lanes the roadway has for the purposes of the intercounty and intracounty fuel tax distribution formulas and the road inventories that local governments are required to submit to NDOT to implement those formulas.

4. Draft legislation to require the Nevada Department of Motor Vehicles to apportion directly to local governments the receipts of the one-cent tax on motor vehicle fuels, except aviation fuel, imposed for the costs of maintaining existing local government roads, highways and streets. (BDR 32-622)

The 2001 Legislature approved Senate Bill 124, which required the allocation and remittance of the 3.6-cent per gallon mandatory tax on motor vehicle fuel imposed pursuant to NRS 365.180 and the 1.75-cent per gallon tax on motor vehicle fuel imposed pursuant to NRS 365.190 to be made directly to incorporated cities. Prior to the enactment of SB 124, the proceeds from both of the levies were remitted monthly to the counties. In counties in which one or more incorporated cities are located, the appropriate amounts were distributed from the counties to the cities after the funds had been transferred from the state to the counties. The provisions of SB 124 were enacted to eliminate the extra transfer by the counties and to accelerate the receipt of payments by the cities.

The Advisory Committee noted that SB 124 did not include a provision requiring the allocation and remittance of the 1-cent per gallon mandatory tax on motor vehicle fuel imposed pursuant to NRS 365.192 to be made directly to incorporated cities. As a result, the proceeds from the tax imposed pursuant to NRS 365.192 were still being transmitted from the State to the counties and then from the counties to the incorporated cities. Based on testimony indicating that the changes effected by the provisions of SB 124 had been well received, the Committee voted to approve the Advisory Committee's recommendation to approve a bill draft request to require the direct apportionment to the incorporated cities of the receipts of the one-cent tax on motor vehicle fuel imposed pursuant to NRS 365.192 for the costs of maintaining existing local government roads, highways and streets.