

Assembly Bill No. 516—Committee on Taxation

CHAPTER.....

AN ACT relating to taxation; revising the formula for the distribution among counties of revenue from a certain additional tax on certain motor vehicle fuel; and providing other matters properly relating thereto.

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

Section 1. NRS 365.196 is hereby amended to read as follows:

365.196 1. The receipts of the tax as levied in NRS 365.192 must be allocated monthly by the Department to the counties in proportion to the number of gallons of fuel that are sold to the retailers in each county pursuant to the information contained in the statements provided to the Department pursuant to NRS 365.192.

2. ~~Each county~~ *The Department* must apportion the receipts of that tax among the county, for unincorporated areas of the county, and each incorporated city in the county. The county and each city are respectively entitled to receive each month that proportion of those receipts which its total population bears to the total population of the county.

3. ~~During the month immediately preceding each January 1 and July 1, the county treasurer of each county shall, when necessary and after a hearing, adopt a regulation which provides for the accurate apportionment of those receipts in the county during the ensuing 6 months.~~

~~4.]~~ The money apportioned to the county or a city must be used by it solely to repair or restore existing paved roads, streets and alleys, other than those maintained by the Federal Government and this state, by resurfacing, overlaying, resealing or other such customary methods.

Sec. 2. NRS 365.550 is hereby amended to read as follows:

365.550 1. ~~The~~ *Except as otherwise provided in subsection 2, the* receipts of the tax levied pursuant to NRS 365.180 must be allocated monthly by the Department to the counties using the following formula:

(a) Determine the average monthly amount each county received in the fiscal year ending on June 30, ~~2001,]~~ *2003*, and allocate to each county that amount, or if the total amount to be allocated is less than that amount, allocate to each county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the fiscal year ending on June 30, ~~2001;~~

~~(b) Determine for each county an amount from the total amount to be allocated using the following formula:~~

- ~~— (1) Two thirds in proportion to population; and~~
- ~~— (2) One third in proportion to road mileage and street mileage of improved roads or streets maintained by the county or an incorporated city located within the county; and compare that amount to the amount allocated to the county pursuant to paragraph (a);~~
- ~~— (c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a); and~~
- ~~— (d) Allocate to any county which is identified pursuant to paragraph (c), using the formula set forth in paragraph (b), any amount from the tax levied pursuant to NRS 365.180 that remains after the allocation required pursuant to paragraph (a).~~
- ~~— 2. Within 10 calendar days after June 1, 2003;~~

(b) If the total amount to be allocated is greater than the average monthly amount all counties received in the fiscal year ending on June 30, 2003, determine for each county an amount from the total amount to be allocated using the following formula:

(1) Multiply the county's percentage share of the total state population by 2;

(2) Add the percentage determined pursuant to subparagraph (1) to the county's percentage share of total mileage of improved roads or streets maintained by the county or an incorporated city located within the county;

(3) Divide the sum of the percentages determined pursuant to subparagraph (2) by 3; and

(4) Multiply the total amount to be allocated by the percentage determined pursuant to subparagraph (3);

(c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (a) from the amount determined pursuant to paragraph (b); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(d) Identify each county for which the amount determined pursuant to paragraph (b) is less than or equal to the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(e) Subtract the amount determined pursuant to subparagraph (2) of paragraph (d) from the amount determined pursuant to subparagraph (2) of paragraph (c);

(f) Divide the amount determined pursuant to subparagraph (1) of paragraph (c) for each county by the sum determined pursuant to subparagraph (2) of paragraph (c) for all counties to determine each county's percentage share of the sum determined pursuant to subparagraph (2) of paragraph (c); and

(g) In addition to the allocation made pursuant to paragraph (a), allocate to each county that is identified pursuant to paragraph (c) a percentage of the total amount determined pursuant to paragraph (e) that is equal to the percentage determined pursuant to paragraph (f).

2. At the end of each fiscal year, the Department shall:

(a) ~~Project~~ Determine the total amount ~~that each county will be allocated~~ to be allocated to all counties pursuant to subsection 1 for the current fiscal year ~~;~~; and

(b) Use the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to each county an amount determined pursuant to subsection 3.

3. If the total amount to be allocated to all the counties ~~will~~ determined pursuant to paragraph (a) of subsection 2:

(a) Does not exceed the total amount that was received by all the counties for the fiscal year ending on June 30, ~~2001,~~ 2003, the Department shall adjust the final monthly allocation to be made to each county so that each county is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the fiscal year ending on June 30, ~~2001.~~

~~—(c) If a county receives an allocation pursuant to paragraph (d) of subsection 1, determine whether the total monthly allocations projected to be made to that county pursuant to subsection 1 for the current fiscal year exceed the total amount the county received in the fiscal year ending on June 30, 2001. If the total monthly allocations projected to be made to the county do not exceed the total amount the county received in the fiscal year ending on June 30, 2001, the Department shall adjust the final monthly allocation to be made to the county for the current fiscal year so that the total amount allocated to the county for the current fiscal year equals the total amount the county received in the fiscal year ending on June 30, 2001.~~

~~—3.] 2003.~~

(b) Exceeds the total amount that was received by all counties for the fiscal year ending on June 30, 2003, the Department shall:

(1) Identify the total amount allocated to each county for the fiscal year ending on June 30, 2003, and the total amount for the current fiscal year determined pursuant to paragraph (a) of subsection 2;

(2) Apply the formula set forth in paragraph (b) of subsection 1 using the amounts in subparagraph (1), instead of the monthly amounts, to determine the total allocations to be made to the counties for the current fiscal year; and

(3) Adjust the final monthly allocation to be made to each county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to subparagraph (2).

4. Of the money allocated to each county pursuant to the provisions of subsections 1 ~~[and 2:]~~, 2 and 3:

(a) An amount equal to that part of the allocation which represents 1.25 cents of the tax per gallon must be used exclusively for the service and redemption of revenue bonds issued pursuant to chapter 373 of NRS, for the construction, maintenance and repair of county roads, and for the purchase of equipment for that construction, maintenance and repair, under the direction of the boards of county commissioners of the several counties, and must not be used to defray expenses of administration; and

(b) An amount equal to that part of the allocation which represents 2.35 cents of the tax per gallon must be allocated to the county, if there are no incorporated cities in the county, or to the county and any incorporated cities in the county, if there is at least one incorporated city in the county, pursuant to the following formula:

- (1) One-fourth in proportion to total area.
- (2) One-fourth in proportion to population.
- (3) One-fourth in proportion to road mileage and street mileage of nonfederal aid primary roads.
- (4) One-fourth in proportion to vehicle miles of travel on nonfederal aid primary roads.

For the purpose of applying the formula, the area of the county excludes the area included in any incorporated city.

~~[4:]~~ 5. The amount allocated to the counties and incorporated cities pursuant to subsections 1 ~~[, 2 and 3]~~ to 4, *inclusive*, must be remitted monthly. The State Controller shall draw his warrants payable to the county treasurer of each of the several counties and the city treasurer of each of the several incorporated cities, as applicable, and the State Treasurer shall pay the warrants out of the proceeds of the tax levied pursuant to NRS 365.180.

~~[5:]~~ 6. The formula computations must be made as of July 1 of each year by the Department, based on estimates which must be furnished by the Department of Transportation and, if applicable, any adjustments to the estimates determined to be appropriate by the Committee pursuant to subsection ~~[9:]~~ 10. Except as otherwise provided in subsection ~~[9:]~~ 10, the determination made by the Department is conclusive.

~~[6:]~~ 7. The Department of Transportation shall complete:

(a) The estimates of the total mileage of improved roads or streets maintained by each county and incorporated city on or before August 31 of each year.

(b) A physical audit of the information submitted by each county and incorporated city pursuant to subsection ~~77~~ 8 at least once every 10 years.

~~77~~ 8. Each county and incorporated city shall, not later than March 1 of each year, submit a list to the Department of Transportation setting forth:

(a) Each improved road or street that is maintained by the county or city; and

(b) The beginning and ending points and the total mileage of each of those improved roads or streets.

Each county and incorporated city shall, at least 10 days before the list is submitted to the Department of Transportation, hold a public hearing to identify and determine the improved roads and streets maintained by the county or city.

~~78~~ 9. If a county or incorporated city does not agree with the estimates prepared by the Department of Transportation pursuant to subsection ~~66~~ 7, the county or incorporated city may request that the Subcommittee examine the estimates and recommend an adjustment to the estimates. Such a request must be submitted to the Subcommittee not later than October 15.

~~99~~ 10. The Subcommittee shall review any request it receives pursuant to subsection ~~88~~ 9 and report to the Committee its findings and any recommendations for an adjustment to the estimates it determines is appropriate. The Committee shall hold a public hearing and determine whether an adjustment to the estimates is appropriate on or before December 31 of the year it receives a request pursuant to subsection ~~88~~ 9. Any determination made by the Committee pursuant to this subsection is conclusive.

~~100~~ 11. The Subcommittee shall monitor the fiscal impact of the formula set forth in this section on counties and incorporated cities and report regularly to the Committee concerning its findings and recommendations regarding that fiscal impact.

~~111~~ 12. As used in this section:

(a) "Committee" means the Legislative Committee for Local Government Taxes and Finance established pursuant to NRS 218.53881.

(b) "Construction, maintenance and repair" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a county or city road and is necessary for the safe and efficient use of that road, including, without limitation:

- (1) Grades and regrades;
- (2) Graveling, oiling, surfacing, macadamizing and paving;

- (3) Sweeping, cleaning and sanding roads and removing snow from a road;
- (4) Crosswalks and sidewalks;
- (5) Culverts, catch basins, drains, sewers and manholes;
- (6) Inlets and outlets;
- (7) Retaining walls, bridges, overpasses, underpasses, tunnels and approaches;
- (8) Artificial lights and lighting equipment, parkways, control of vegetation and sprinkling facilities;
- (9) Rights-of-way;
- (10) Grade and traffic separators;
- (11) Fences, cattle guards and other devices to control access to a county or city road;
- (12) Signs and devices for the control of traffic; and
- (13) Facilities for personnel and the storage of equipment used to construct, maintain or repair a county or city road.

(c) "Improved road or street" means a road or street that is, at least:

- (1) Aligned and graded to allow reasonably convenient use by a motor vehicle; and
- (2) Drained sufficiently by a longitudinal and transverse drainage system to prevent serious impairment of the road or street by surface water.

(d) "Subcommittee" means the Subcommittee appointed pursuant to NRS 218.53884.

(e) "Total mileage of an improved road or street" means the total mileage of the length of an improved road or street, without regard to the width of that road or street or the number of lanes it has for vehicular traffic.

Sec. 3. NRS 365.550 is hereby amended to read as follows:

365.550 1. ~~The~~ *Except as otherwise provided in subsection 2, the* receipts of the tax levied pursuant to NRS 365.180 must be allocated monthly by the Department to the counties using the following formula:

(a) Determine the average monthly amount each county received in the fiscal year ending on June 30, ~~2001,~~ *2003*, and allocate to each county that amount, or if the total amount to be allocated is less than that amount, allocate to each county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the fiscal year ending on June 30, ~~2001;~~

~~(b) Determine for each county an amount from the total amount to be allocated using the following formula:~~

~~(1) Two thirds in proportion to population; and~~

~~(2) One third in proportion to road mileage and street mileage of improved roads or streets maintained by the county or an incorporated city located within the county; and compare that amount to the amount allocated to the county pursuant to paragraph (a);~~

~~(c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a); and~~

~~(d) Allocate to any county which is identified pursuant to paragraph (c), using the formula set forth in paragraph (b), any amount from the tax levied pursuant to NRS 365.180 that remains after the allocation required pursuant to paragraph (a).~~

~~2. Within 10 calendar days after June 1, 2003;~~

(b) If the total amount to be allocated is greater than the average monthly amount all counties received in the fiscal year ending on June 30, 2003, determine for each county an amount from the total amount to be allocated using the following formula:

(1) Multiply the county's percentage share of the total state population by 2;

(2) Add the percentage determined pursuant to subparagraph (1) to the county's percentage share of total mileage of improved roads or streets maintained by the county or an incorporated city located within the county;

(3) Divide the sum of the percentages determined pursuant to subparagraph (2) by 3; and

(4) Multiply the total amount to be allocated by the percentage determined pursuant to subparagraph (3);

(c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (a) from the amount determined pursuant to paragraph (b); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(d) Identify each county for which the amount determined pursuant to paragraph (b) is less than or equal to the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(e) Subtract the amount determined pursuant to subparagraph (2) of paragraph (d) from the amount determined pursuant to subparagraph (2) of paragraph (c);

(f) Divide the amount determined pursuant to subparagraph (1) of paragraph (c) for each county by the sum determined

pursuant to subparagraph (2) of paragraph (c) for all counties to determine each county's percentage share of the sum determined pursuant to subparagraph (2) of paragraph (c); and

(g) In addition to the allocation made pursuant to paragraph (a), allocate to each county that is identified pursuant to paragraph (c) a percentage of the total amount determined pursuant to paragraph (e) that is equal to the percentage determined pursuant to paragraph (f).

2. At the end of each fiscal year, the Department shall:

(a) ~~[Project] Determine~~ the total amount ~~[that each county will be allocated]~~ to be allocated to all counties pursuant to subsection 1 for the current fiscal year ~~[]~~; and

(b) Use the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to each county an amount determined pursuant to subsection 3.

3. If the total amount to be allocated to all the counties ~~[will]~~ determined pursuant to paragraph (a) of subsection 2:

(a) Does not exceed the total amount that was received by all the counties for the fiscal year ending on June 30, ~~[2001,] 2003, the Department shall~~ adjust the final monthly allocation to be made to each county so that each county is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the fiscal year ending on June 30, ~~[2001.~~

~~*(c) If a county receives an allocation pursuant to paragraph (d) of subsection 1, determine whether the total monthly allocations projected to be made to that county pursuant to subsection 1 for the current fiscal year exceed the total amount the county received in the fiscal year ending on June 30, 2001. If the total monthly allocations projected to be made to the county do not exceed the total amount the county received in the fiscal year ending on June 30, 2001, the Department shall adjust the final monthly allocation to be made to the county for the current fiscal year so that the total amount allocated to the county for the current fiscal year equals the total amount the county received in the fiscal year ending on June 30, 2001.*~~

~~*—3.] 2003.*~~

(b) Exceeds the total amount that was received by all counties for the fiscal year ending on June 30, 2003, the Department shall:

(1) Identify the total amount allocated to each county for the fiscal year ending on June 30, 2003, and the total amount for the current fiscal year determined pursuant to paragraph (a) of subsection 2;

(2) Apply the formula set forth in paragraph (b) of subsection 1 using the amounts in subparagraph (1), instead of

the monthly amounts, to determine the total allocations to be made to the counties for the current fiscal year; and

(3) Adjust the final monthly allocation to be made to each county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to subparagraph (2).

4. Of the money allocated to each county pursuant to the provisions of subsections 1 ~~and 2;~~, **2 and 3:**

(a) An amount equal to that part of the allocation which represents 1.25 cents of the tax per gallon must be used exclusively for the service and redemption of revenue bonds issued pursuant to chapter 373 of NRS, for the construction, maintenance and repair of county roads, and for the purchase of equipment for that construction, maintenance and repair, under the direction of the boards of county commissioners of the several counties, and must not be used to defray expenses of administration; and

(b) An amount equal to that part of the allocation which represents 2.35 cents of the tax per gallon must be allocated to the county, if there are no incorporated cities in the county, or to the county and any incorporated cities in the county, if there is at least one incorporated city in the county, pursuant to the following formula:

(1) One-fourth in proportion to total area.

(2) One-fourth in proportion to population.

(3) One-fourth in proportion to road mileage and street mileage of nonfederal aid primary roads.

(4) One-fourth in proportion to vehicle miles of travel on nonfederal aid primary roads.

For the purpose of applying the formula, the area of the county excludes the area included in any incorporated city.

~~4.~~ **5.** The amount allocated to the counties and incorporated cities pursuant to subsections 1 ~~2 and 3~~ **to 4, inclusive**, must be remitted monthly. The State Controller shall draw his warrants payable to the county treasurer of each of the several counties and the city treasurer of each of the several incorporated cities, as applicable, and the State Treasurer shall pay the warrants out of the proceeds of the tax levied pursuant to NRS 365.180.

~~5.~~ **6.** The formula computations must be made as of July 1 of each year by the Department, based on estimates which must be furnished by the Department of Transportation and, if applicable, any adjustments to the estimates determined to be appropriate by the Committee pursuant to subsection ~~9.~~ **10.** Except as otherwise provided in subsection ~~9.~~ **10**, the determination made by the Department is conclusive.

~~6.~~ **7.** The Department of Transportation shall complete:

(a) The estimates of the total mileage of improved roads or streets maintained by each county and incorporated city on or before August 31 of each year.

(b) A physical audit of the information submitted by each county and incorporated city pursuant to subsection ~~{7}~~ 8 at least once every 10 years.

~~{7}~~ 8. Each county and incorporated city shall, not later than March 1 of each year, submit a list to the Department of Transportation setting forth:

(a) Each improved road or street that is maintained by the county or city; and

(b) The beginning and ending points and the total mileage of each of those improved roads or streets.

Each county and incorporated city shall, at least 10 days before the list is submitted to the Department of Transportation, hold a public hearing to identify and determine the improved roads and streets maintained by the county or city.

~~{8}~~ 9. If a county or incorporated city does not agree with the estimates prepared by the Department of Transportation pursuant to subsection ~~{6}~~ 7, the county or incorporated city may request that the Committee examine the estimates and recommend an adjustment to the estimates. Such a request must be submitted to the Committee not later than October 15.

~~{9}~~ 10. The Committee shall hold a public hearing and review any request it receives pursuant to subsection ~~{8}~~ 9 and determine whether an adjustment to the estimates is appropriate on or before December 31 of the year it receives a request pursuant to subsection ~~{8}~~ 9. Any determination made by the Committee pursuant to this subsection is conclusive.

~~{10}~~ 11. The Committee shall monitor the fiscal impact of the formula set forth in this section on counties and incorporated cities. Biennially, the Committee shall prepare a report concerning its findings and recommendations regarding that fiscal impact and submit the report on or before February 15 of each odd-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Committees on Taxation of the Nevada Legislature for their review.

~~{11}~~ 12. As used in this section:

(a) "Committee" means the Committee on Local Government Finance created pursuant to NRS 354.105.

(b) "Construction, maintenance and repair" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a county or city road and is necessary for the safe and efficient use of that road, including, without limitation:

(1) Grades and regrades;

- (2) Graveling, oiling, surfacing, macadamizing and paving;
- (3) Sweeping, cleaning and sanding roads and removing snow from a road;
- (4) Crosswalks and sidewalks;
- (5) Culverts, catch basins, drains, sewers and manholes;
- (6) Inlets and outlets;
- (7) Retaining walls, bridges, overpasses, underpasses, tunnels and approaches;
- (8) Artificial lights and lighting equipment, parkways, control of vegetation and sprinkling facilities;
- (9) Rights-of-way;
- (10) Grade and traffic separators;
- (11) Fences, cattle guards and other devices to control access to a county or city road;
- (12) Signs and devices for the control of traffic; and
- (13) Facilities for personnel and the storage of equipment used to construct, maintain or repair a county or city road.

(c) "Improved road or street" means a road or street that is, at least:

- (1) Aligned and graded to allow reasonably convenient use by a motor vehicle; and
- (2) Drained sufficiently by a longitudinal and transverse drainage system to prevent serious impairment of the road or street by surface water.

(d) "Total mileage of an improved road or street" means the total mileage of the length of an improved road or street, without regard to the width of that road or street or the number of lanes it has for vehicular traffic.

Sec. 4. 1. This section and section 2 of this act become effective on July 1, 2003.

- 2. Section 1 of this act becomes effective on October 1, 2003.
- 3. Section 2 of this act expires by limitation on June 30, 2005.
- 4. Section 3 of this act becomes effective on July 1, 2005.