MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE

Seventy-Third Session
March 10, 2005

The Committee on Growth and Infrastructure was called to order at 1:40 p.m., on Thursday, March 10, 2005. Chairman Richard Perkins presided in Room 4100 of the Legislative Building, Carson City, Nevada, and via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Richard Perkins, Chairman
Ms. Chris Giunchigliani, Vice Chairwoman
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Tom Grady
Mr. Lynn Hettrick
Mrs. Marilyn Kirkpatrick
Ms. Sheila Leslie
Mr. David Parks
Ms. Peggy Pierce
Mr. Scott Sibley
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

Mr. Harry Mortenson (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman John W. Marvel, Assembly District No. 32
Assemblyman John C. Carpenter, Assembly District No. 33
Senator Dean A. Rhoads, Northern Nevada Senatorial District

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Russell Guindon, Deputy Fiscal Analyst
Linda Utt, Committee Manager
James Cassimus, Committee Attaché
Casey Bales, Committee Aide

OTHERS PRESENT:

Andrew List, Executive Director, Nevada Association of Counties (NACO)
Carole Vilardo, President, Nevada Taxpayers Association
Lucille Lusk, Chairman, Nevada Concerned Citizens
Richard Ziser, representing Nevada Concerned Citizens
Robin Reedy, Deputy of Debt Management, Nevada State Treasurer's Office
Michael J. Franzoia, Mayor, City of Elko
Glen Guttry, Supervisor, City of Elko
Chris J. Johnson, City Councilman, City of Elko
John Ellison, Commissioner, County of Elko
Mary Walker, Legislative Advocate, City of Elko
Charles "Chuck" Chinnock, Director, Nevada Department of Taxation
Linda Ritter, City Manager, Carson City
Bjorn "BJ" Selinder, Legislative Advocate, representing Churchill County

Chairman Perkins:
[Meeting called to order. Roll called.] We have two bills on our agenda. We'll first take up Assembly Bill 146.

Assembly Bill 146: Excludes from statutory limitation on total ad valorem tax certain ad valorem tax levies imposed by Legislature. (BDR 32-597)

Andrew List, Executive Director, Nevada Association of Counties (NACO):
[Introduced himself.] I appear before you today to urge passage of A.B. 146. This bill will exclude the $0.15 portion of the property tax rate currently levied in each county by the state from the $3.64 tax cap. This $0.15 is utilized by the state to repay bonded indebtedness or to fund state operating expenses.

[Andrew List, continued.] The maximum overlapping tax rate in counties is limited to $3.64 by statute. There are two additional cents authorized by Senate Bill 507 of the 72nd Legislative Session that are already outside the statutory cap. This additional $0.02 is used to pay for bonds issued pursuant to Question 1, which was a statewide voter approved measure for land conservation and recreation-related capital improvements. The addition of this $0.02 for Question 1 bonds makes an effective overlapping tax rate of $3.66. We are dealing with two numbers, the $3.64 statutory cap and the maximum a county can actually go to, which is $3.66.

Let me make two things clear about this bill. First, this is not a tax increase. The exclusion of this rate from the statutory cap does nothing to the rate itself. It leaves an additional $0.15 below the cap for local governments to utilize. A local government would have to act before property taxes would actually increase.

Second, when this was brought before the NACO board of directors, each county said, at this time, they are not interested in raising taxes. This is something more of a safety net for counties near the cap, in case the money is needed in the future.

There are currently five counties at the statutory cap and two more are within a fraction of the cap. I have listed these jurisdictions in your handout (Exhibit B). In Mineral County, the countywide rate is $3.66; White Pine County, $3.66 countywide. In Elko County, the jurisdiction of Carlin, a small city, is at $3.66. Kingston Town in Lander County is at $3.66. The City of Caliente, Lincoln County, is at $3.66. The City of Lovelock in Pershing County is at $3.6592. Amargosa Valley in Nye County is at $3.6567. These are the seven counties that are the closest to the cap. There are four more counties that are with $0.15. There are a good number of them that are near or at the cap.

The counties are not the only local governments who could benefit from this bill. Any local government or special district that utilizes property tax as a source of revenue could use the $0.15 rate if it chooses to do so. This includes counties, cities, school districts, and other special districts. The additional rate could also be used for voter-approved projects which may include library projects or senior citizen centers.

By way of example, you'll see a figure in your handout (Exhibit B) that talks about Mineral County. It shows the distribution of property tax in Mineral County. That includes the State of Nevada's $0.15, Mineral County, imposed voter rates, the hospital district, and the school district. The additional $0.15, if the local government chose to do so, could benefit Mt. Grant Hospital or Mineral

County. Currently, the voter-approved tax rates fund legal action regarding water rights on Walker Lake and also a senior citizen center.

[Andrew List, continued.] A second example on how this additional rate could be utilized is in Pershing County in the chart you see there. It could be used by the Pershing County General Hospital, the City of Lovelock, the school district, the county, or for any additional projects requested by the citizens of Pershing County. Currently, voter-approved tax rates include operating revenue for the small hospital that they have for the citizens and an operating rate for the county's 911 emergency system.

NACO believes that the additional rate would benefit local governments within counties that are at, or near, the $3.64 property tax rate. While none of the counties have indicated the need or desire for additional property taxes at this time, there could be situations in the future where additional taxes become necessary. These situations include public safety measures such as additional police officers or a new jail; they might include new court facilities, new libraries, or school districts to fund new schools or upgrade additional school facilities through bonding.

This measure could become part of the overall solution that you are looking for regarding property taxes. One way or another, you should consider this for some of the counties that have decreasing assessed valuations or near the cap. Any tax restraint measure you come up with injures those smaller counties. This could be a way for them to recoup revenue. Thank you for your time and consideration on A.B. 146. Please contact me if you need any additional information. I'll be happy to answer your questions.

Chairman Perkins:
Mr. List, do you know of any counties that are considering using this mechanism in the near term?

Andrew List:
When we brought this in front of our board of directors, all the counties initially feared this was going to look like we want to raise taxes. The counties made it absolutely clear that none of them are anticipating a tax increase at this time. What we are looking for is a bit of wiggle room for these counties near the cap, especially the rural counties, in case something comes up that is unanticipated. In the last interim, we saw a mold problem in the courthouse in Mineral County. They anticipated huge cleanup costs. They didn't know where they were going to get the funds. Fortunately, the problem ended up being a lot smaller than

originally anticipated. But something like that, an unforeseen circumstance, is what we are addressing here. But none of the counties want to raise their taxes.

Assemblywoman Giunchigliani:
For several years, you've actually tried to look at removing some of the state's dollar amounts, whether it was the indigent fund, schools, or this number from out in the ether. It was Senator Rhoads who chaired one of the committees which tried to make a recommendation on this. If we were to do this, would that mean that a lot of projects that we're looking at this session—courthouse project, railroads, needs along those lines—the local governments could handle that on their own, so we are not asked to fund them?

Andrew List:
Although I have not done the math, $0.15 in a rural county is not a lot of money. In Mineral County, it is worth less than $100,000.

Assemblywoman Giunchigliani:
And in Lincoln, it will be even less.

Andrew List:
And in White Pine County, you are looking at an appropriation of $15 million for the courthouse. It's a lot of money, so I don't think that the tax rate we are looking at could possibly fund that particular project.

Assemblywoman Giunchigliani:
That may be, but too often, they are local government responsibilities that the state is asked to act on. If we do this, it will at least give some opportunity for them to either show a maintenance of effort, or something along those lines, which is part of what we talked about in the past; understanding that some of them are so small they just don't have the ability to raise the additional revenue.

Andrew List:
Something that has come up in speaking with the White Pine County folks is the maintenance of the new facility with additional power costs, additional space. There could be some additional costs associated with that building that the

county would then have to take on. This additional $0.15 could help them with that.

Chairman Perkins:
If the voters decided in any of these jurisdictions that are at the cap to do a voter-imposed override, can they do that if they are already at the cap?

Andrew List:
I believe there is a mechanism in the *Nevada Revised Statutes* (NRS) 361, that involves the Nevada Tax Commission by which it can be done. But I am not familiar with that particular process. It's a question better left to a local government finance expert.

Chairman Perkins:
I'll pose that question to our staff and get the answer there.

Carole Vilardo, President, Nevada Taxpayers Association:
[Introduced herself.] I am speaking in support of the bill. This issue has been raised ever since 1996 when the original committee was formed from local government to take a look at restraints. Originally, when the combined rate was put in, the state had gone out of the property tax business. It was felt that the combined rate would serve for all those local government issues that you were looking at—from operating rates to voter overrides to bond issues. Little by little, the state went into the point where the state takes up, within the cap, $0.15—technically, they take up $0.75 because that is the school rate and that is mandated by the state. Last year, we looked at backing those out and going to down to $2.36 for the local governments and putting everything else outside that cap or having a secondary cap.

It is important. From the locally elected officials, the concern is not as much for the operating rate to go in, but there are counties and schools that want it to go out. A particular county wanted to go out with a school issue. The only flexibility that there was $0.02 and it was not enough for them to be able to secure the bonding to build the building. It is interesting that we are looking at putting something else outside the cap which might appear to cause an increase in property tax rates at the same time we are looking at property tax relief.

At some point, this has to happen. The longer it goes, the worse it gets. The City of Reno is within $0.02 or $0.03 of $3.64, and if they reserve that rate, and the schools in Reno need to go for a bond issue, they will not be able to. There is no mechanism that allows you to exceed the cap, except in a five-year emergency situation for rural communities. With that one, you can go up another $0.20 or $0.30, but it is voter approved, to declare an emergency, and can only last for five years.

I would ask for your favorable consideration on A.B. 146. Thank you.

Assemblywoman Giunchigliani:
I was trying to remember when we had actually made so many years ago some of those recommendations. It is $0.75 that we've crept into on schools. What is it on the indigent?

Carole Vilardo:
When the combined rate started, it was $0.50. Then in 1983, because of the shortfall in the schools, it went to the additional $0.25. I don't believe that anybody previously has looked at this. The committee that we sat on, Senator Rhoads' committee, looked at removing $0.11 on indigent—because that was an average; it could be a little lesser or higher—the $0.50 on schools, and the debt rate was still $0.15 since 1991.

Assemblywoman Giunchigliani:
If we do this, I don't see it the same, because it looks awkward because we're talking about property taxes. It would still be a vote of the public if their local governments chose to do it. That, I think, is the responsible way. The public wants to be a partner in this.

In 1981, when the shift came in, the whole point was to get the state out of the property tax business. We have slowly woven our way back in. So, if we are going to do it, we should do it right and at one time and remove all those factors out of the cap that shouldn't be in there that the state has an obligation to. That will free up [the rate], and the local governments can make their decisions based on their voter approval or not.

Carole Vilardo:
If you were to choose to do that, we have the language for the bill either from last year or from 1991. As a point of clarification, right now the biggest constraint that the locals face has been for bond issues. Be aware, once you free up any of that rate, it is not mandatory voter approval unless it is a bond

issue. If somebody needs an operating rate, that can be set through the normal budgeting process, and that is no vote.

Assemblywoman Giunchigliani:
Thank you for that clarification. That may be a policy decision we may want to take a look at. For discussion purposes, if we are even going to entertain this, let's put it all on the table and decide what's the best policy.

Chairman Perkins:
Let me just indicate for the record and the Committee that the representatives of Elko County, Storey County, Carson-Douglas, Lyon County, and Churchill County are all signed in and in favor of A.B. 146.

Lucille Lusk, Chairman, Nevada Concerned Citizens:
[Introduced herself.] I wish to speak in opposition to A.B. 146 as written. As we understand it, this removes the property tax levied by the Legislature for bonded indebtedness or to fund the operating expenses of the state from the cap, which, according to the language in the law, is suppose to limit property taxes levied for all public purposes to $3.64. Part of our problem is the sense of deceptive language. As we talk about a cap and say that it's limited, but yet as we repeatedly remove things from under that cap, it no longer exists for any meaningful purpose. The passage of A.B. 146 would be the final straw to make the cap absolutely meaningless, since, as we read it, it is not limited to $0.15, but the state could then levy additional property taxes for the operating expenses of the state over and above the cap. The only limit that I see in this bill is the one that limits the total to $4.50. I see nothing that would say that it is only $0.15 issue.

As it has already been mentioned, it does seem especially appalling at this time while the issue of the huge jumps in property taxes remains unsolved. Perhaps, this should be part of an overall solution. I have no objection to considering this as part of the entire package if, in fact, it is needed to work something out that works well for the entire state—both the urban and rural counties. I would request that, if in so doing, the language be more straightforward and not be written to imply that something is taking place that is not taking place.

A couple of issues were raised. One was that the counties don't currently need this; they don't currently intend to use it. I don't see a purpose in proceeding with this bill independent of the entire tax discussion on property taxes that this Legislature is currently undertaking.

Assemblywoman Giunchigliani:
Which language exactly do you feel is somewhat innocuous?

Lucille Lusk:
That language that establishes a cap at $3.64 for all public purposes, and when you say "all public purposes," that would be state, that would be county, that would be schools. The moment one does something outside that cap, then it is no longer a cap at $3.64 for all public purposes.

Assemblywoman Giunchigliani:
So, it is none of the new language that gives you discomfort. It is really going back and reviewing the other language.

Lucille Lusk:
Right, but taking something outside it makes that language less honest.

Assemblyman Anderson:
There has been a long, ongoing discussion relative to dollars that come into counties, relative to the manner in which counties collect forfeitures at the court level and fees. That has taken dollars away from the state that had once gone to the state by utilizing that methodology and, over the last several sessions, has provided a new revenue stream to the counties that weren't really appreciated before the court system had somewhat changed. If A.B. 146 were to pass, do you perceive that the forfeiture question would return to the state distributive school fund where it could gather interest so that we would not have to make up dollars out of state General Fund dollars for education?

Andrew List:
I think you want to tighten up the language in regard to forfeitures and the assessments. That should be done in your committee, which is the Judiciary Committee, rather than through property tax. I understand what you are saying. If we get this additional property tax revenue, will they book their tickets properly? I can't address that.

Assemblyman Anderson:
My concern was over the fact of the loss of those dollar revenues if that would require monies to be made up from the state General Fund. It isn't a substantial amount, not more than $3-4 million a year. But the interest on that could have made some difference over the last 10 years or so. I was just curious if you had thought about that element of it.

Andrew List:
I had not considered that.

Assemblyman Anderson:
That's always near and dear to my heart. Thank you.

Richard Ziser, Nevada Concerned Citizens:
[Introduced himself.] I signed in prior to knowing that Lucille Lusk was going to make it in to give her testimony. What she has said is exactly what I would be saying as well, just concurring with what she had to say. I have no further comments.

Chairman Perkins:
Thank you, sir, for your comments. Robin; neutral on A.B. 146.

Robin Reedy, Deputy of Debt Management, Nevada State Treasurer's Office:
[Introduced herself.] I discovered this bill about 55 minutes ago. In my intense scrutiny, I have spoken with bond counsel and financial advisors as to the effect this might have on our bond ratings. I did have a brief discussion with our Treasurer as well. We say "neutral" while we think the bond rating agencies will probably view this favorably because it will give some breathing room to the other municipalities within the state. We would still like, however, to have some time to actually speak with the rating agencies themselves. While it does give them an exception to the $3.64, it does not give the state an exception to the constitutional debt limit. I think that's what the debt rating agencies would be looking at. Therefore, we are on the fence leaning toward favorable.

Chairman Perkins:
Thank you for your testimony. Any questions from the Committee? Anybody else wishing to testify either for or against or neutral on A.B. 146? Seeing none,

we will close the hearing on Assembly Bill 146, and move our attention to Senate Bill 38 (1st Reprint). We recognize our colleagues Mr. Carpenter, Senator Rhoads, and Mr. Marvel. Thank you for your patience and letting us get this Assembly bill out of the way.

Senate Bill 38 (1st Reprint): Revises formula for distribution of proceeds of certain taxes to local governments. (BDR 32-863)

Senator Dean A. Rhoads, Northern Nevada Senatorial District:
[Submitted Exhibit C.] We have run into a problem in rural Nevada, as I have indicated to you and other members of the Committee early in the session. We have a problem in Elko County, Lander, Esmeralda, and other rural mining communities regarding a fundamental flaw in the Consolidated Tax formula. The Consolidated Tax is a combination of local government taxes, primary sales tax which is one of the largest sources of local government revenues. This is an important issue for us in rural counties.

When the Consolidated Tax was put into effect in 1998, it included a very important stabilizing factor called the "one-plus" formula. For rural mining communities, the "one-plus" formula was critical to stabilizing the Consolidated Tax so windfalls would not occur in mining communities where wide swings in the economy can occur.

In 2001, the Consolidated Tax formula was changed to eliminate the "one-plus" formula due to concerns by large urban cities that the formula was not responsive to growth. While the elimination of the "one-plus" factor may have been advantageous to larger urban communities, it has been disastrous to some of the smaller rural mining communities, whose economies vary significantly from year to year.

For the past few months, Elko County, City of Elko, Wendover, and other entities have tried to resolve this tax flaw locally. However, negotiations were of no avail. I am asking for your support of S.B. 38 to eliminate the unstableness of the Consolidated Tax formula for our smaller, rural, local governments.

If the "one-plus" would have been back in the formula, Elko County would have received about $1 million and the City of Elko about $900,000. But the way it is today, Wendover and Jackpot receive $2.4 million, and Elko City and Elko County get nothing. We want to put this bill through retroactive to January 1, 2005.

Assemblyman Anderson:
Senator, the additional revenues that have been generated within the county that are going to be distributed in part because of the gaming dollars…

Senator Rhoads:
The percentage of population gained. What has happened is…

Assemblyman Anderson:
No, that's the distribution of it, but the dollar margin itself is because of population gain, sales tax?

Senator Rhoads:
Yes, that's true. Because those communities are so small that even if they gained 8 people, it makes an increase.

Assemblyman Anderson:
I am trying to figure out where the dollars came from, and it's not because of the increased revenue in Wendover because of the gaming establishments, it's solely because of the increased dollars raised in population from sales.

Senator Rhoads:
Right, I think there will be somebody here to explain that later.

Assemblyman John W. Marvel, Assembly District No. 32, Humboldt (Part), Lander (Part), Washoe (Part):
[Introduced himself.] I don't represent too much of Lander County any more, but I have a small portion of it at this time and quite a bit of Humboldt County. But Lander County has a unique situation too. I don't think a lot of people have heard of a little community called Kingston; they have a population of 36. Under the present formula, if they get 2 new people, that skews the whole formula. Battle Mountain and Austin are the two major centers of Lander County; they are absolutely precluded from getting any monies.

[Assemblyman Marvel, continued.] I support the efforts of my colleagues from Elko County and certainly the people who are going to be testifying here. There is an inequity here, and we appreciate your consideration of favorable passage of this bill.

Assemblyman John C. Carpenter, Assembly District No. 33, Elko County, Humboldt (Part):

[Introduced himself. Read prepared statement (Exhibit D).] I am here today to testify in support of S.B. 38. This bill is legislation that will enable certain counties to revert back to what is known as the "one-plus" formula for the excess distribution of revenues to local government from sales tax.

The present statute provides that local entities within a county can enter into a cooperative agreement that sets forth an alternative formula for the distribution of these taxes.

A number of meetings were held to attempt to arrive at a cooperative agreement. It became obvious that Wendover was not interested in a formula that would satisfy the other entities. Consequently, we are here to ask for a legislative solution—hence, S.B. 38.

Because all entities in Elko County except Wendover and Jackpot have shown a negative growth and negative assessed valuation for the past five years, the present formula is having a very adverse effect on the other entities in Elko County. The present formula allows only Wendover and Jackpot to share in the excess distribution. The entities that are being negatively impacted are Elko County, Elko City, Wells, Carlin, Montello, and Mountain City.

I have provided the Committee with a handout (Exhibit D) that shows the bulk of the sales tax is generated in Elko City. Although I do not like to testify against a city in my district, I have no choice. Wendover and Jackpot will be receiving an excess distribution of $1,254,371 and $297,603 respectively, while the other entities will be receiving zero.

This excess distribution is through December 31, 2004. If this bill is passed, after January 1, 2005, the formula will revert back to the "one-plus" factor and all counties will share in the excess on a more equitable basis.

Elko County and City are experiencing hardships in providing essential services to their citizens. I believe the "one-plus" formula, although not perfect, is much better than it is now. Other people will testify in greater detail as to the specifics of S.B. 38 along with their concerns as to the present formula.

Michael J. Franzoia, Mayor, City of Elko, Nevada:
[Introduced himself.] I would like to thank you in your efforts for hearing this issue, and on behalf of the citizens of Elko, we appreciate the expedition of this bill. As has previously been stated, there is a glitch with the formula. The City of Elko didn't really realize it when the law was changed. The economy was sluggish; we only recently have seen gold prices stabilized where they are up enough that the employees of mining feel comfortable spending money in the community.

The City of Elko generates about 85 percent of the sales taxes in Elko County. We are seeing growth that was unexpected—potentially $2.4 million. In December, we had 28 percent growth over the prior year, which generates an additional $544,000 to the City of Wendover. We tried to negotiate, but it failed. We had a good plan from Assemblyman Carpenter that had merit.

Nevertheless, we agree that we are all victims of what has happened in the past and the victims of the unintended consequences of legislative action in prior sessions. Understanding this, the city council supports this bill in the way that holds no harm to West Wendover. So, we have this set up as retroactive to January 1, 2005. What Wendover has received to this point should stay there, because they are victims just as well as we are.

Currently, we look at the averages, rolling 5-year averages. From 2000 to 2005, Wendover grew by a total population of 16; the City of Elko lost 51. The City of Elko's population is over 17,000, and West Wendover is just under 5,000; there is quite a disparity.

Currently, lot of the growth we are seeing is coming from construction activities within the community. Two years ago, we had 450 houses on the market within the area; we are now down to 35, which is very strong. The employment rate is low; mines are trying to find people to hire; they are having difficulty in finding those employees.

We are having new construction. Wal-Mart is adding on; Home Depot is coming to town; and some banks are expanding. We have activities, but we are not seeing the benefits financially from this. Yet, local government provides the bulk of the services that the public demands.

A lot of those services we provide the public does not see borders on that. We are always the first offender; when there are complaints in the community, they call local government. In this case, they call the cities.

[Michael Franzoia, continued.] We are encouraging the passage of this bill. It is right; it is good legislation. We are trying to keep the status quo, trying to help all the communities and cities in the surrounding area.

It would not be responsible government to allow a problem to exist and watch the pendulum swing back and forth in mining communities that are volatile and subject to the economies of mining; that one year, we could be windfall ourselves and, the next year, have it go someplace else, providing a hardship for local government to even respond by their budget or providing the services that the public demands. This basically stabilizes it for all concerned. It is a good bill.

Glen Guttry, Supervisor, City of Elko, Nevada:
[Introduced himself. Read from a prepared statement (Exhibit E).] I am here in support of S.B. 38. I have been in business in Elko for the past 21 years and on the Elko City Council for 10 years. My business last year had an 11 percent increase. In terms of sales tax revenue, that amounted to about $14,000. The approximate excess amount that should have gone to the county was $5,700, and the amount that should have gone to the City of Elko was $5,000, just from my increase alone. Instead, the entire amount went to West Wendover and Jackpot. My employees collected that tax and my customers in the Elko area paid that tax. They expect that tax to go to much-needed improvements in our streets and other services that have been drastically cut in the last 5 years. That money could have filled potholes in front of my store or other businesses in Elko.

As a city councilman, I have had to vote for two property tax increases in the last 2 years for a total 19 percent increase just to keep the doors open at City Hall. I have had to face the reality that 26 jobs with the City of Elko have gone away in the last 5 years. Being an optimist, I have told the taxpayers that when the economy does turn around, we will restore the level of service that the citizens of Elko deserve and lower property taxes back down. With 5 years of flat revenues and increasing costs, we have now millions of dollars worth of road repairs that we will never have the money to keep up with.

With Home Depot under construction and Wal-Mart expanding, the economy in Elko is very strong and is going to get even stronger. My constituents are asking me what is going on. Sales taxes are way up; building is way up; things seem to be going very well. We have increased population and, in turn, we have increased pressure on infrastructure, but we have no increase in revenues to compensate. All of the sales tax increases are going to other communities that did not generate it. The system that is in place now for the distribution of sales tax in Elko County is terribly flawed and has to be changed quickly.

[Glen Guttry, continued.] Imagine for a moment that, 4 years ago, Congress, in the waning hours of the session, passed some seemingly good legislation that they neglected to tell any of you about. Now 4 years later, all the stars line up just right and you get a call from Mr. Comeaux. He tells you some bad news: the $300 million in excess tax revenue that you were going to use to save the Millennium Scholarship program, among other things, is going away, and the governor of California is going to use it to balance his budget. You would feel the same way the taxpayers of Elko feel right about now.

I realize that this is really no one's fault, but as of today, the City of Elko has lost about $540,000 in revenue that we generated. That is only 6 months' worth of increases. We have a capital improvement budget for our roads of $350,000 per year for the entire year for road repairs. We have road repairs that are estimated at $40 million. This money could make a huge difference in our economic picture. Thank you for your time, and I urge you to support S.B. 38.

Chairman Perkins:
From my perspective, let me just clear up something. The 2001 legislation was mine. It was brought forward to correct concerns in Nevada. It wasn't something that was done very quickly. Everybody had the opportunity to address it at the time, and certainly the unintended consequence of what you see right now is something that needs some attention.

I don't think anybody in this Legislature—myself included—had any intention to provide any harm to the municipalities that happen to reside in the County of Elko or any other mining areas.

Glen Guttry:
We all understand that it was unintentional.

Chris J. Johnson, City Councilman, City of Elko, Nevada:
[Introduced himself. Read prepared statement (Exhibit F).] I am in favor of this bill, because the "one-plus" formula is needed in counties that have cities and townships with a population difference of 50 percent. The formula to allocate excess sales tax in a county where communities are closer in size can work because of the similar percentages of growth that each community can provide in relation to the other communities. In a county with large differences in population, the "no 'one-plus'" formula will not distribute excess sales tax in a needed way.

[Chris Johnson, continued.] The "one-plus" formula is needed in counties that have cities and townships with an average distance between them of over 50 miles. If communities are closer, or even adjoining, then, as one community grows and provides citizens for increased sales tax in another community, a benefit can be shown that would cause the excess dollars to go to that community that is growing. In counties that are vast, citizens that live away from a community that is generating an increase in sales tax are probably not the cause for the increase.

The "one-plus" formula is needed in counties that have net proceeds of mines in excess of $50,000,000, because of the potential change in population and assessed valuation annually. This county would need stabilization in sales tax dollars to work on a 5 year timeframe instead of yearly, because of the potential changes in the factors of a "no 'one-plus'" formula.

The "one-plus" formula is needed because an interlocal agreement could not work in a county with average distances of over 50 miles. An interlocal agreement would work for adjoining communities and may work for a situation that is requiring a change in the sales tax receipts of less than 10 percent. Another item needed is a tangible benefit of a community to fund outside of their boundaries. An interlocal agreement would work with more time to negotiate and apply the monies to a small project, but cannot work as a mechanism to shift a large percentage of sales dollars form one community to another.

The "one-plus" formula still provides a change in sales tax dollars as communities grow but will provide this at a slower pace, which is needed for the other communities.

From a business side, the City of Elko's economy is improving. I own a mechanical contracting firm, and our sales have paralleled total sales tax generation in the county. In the late 1990s, our volume was great; in 2000, 2001, and 2002, we saw a decline, a bottom, and a recovery. 2003 and 2004 have been growth years, and most of our work has been within the boundaries of the City of Elko. There are good things happening in Elko, and we can put to use the sales tax dollars to keep our city sound and attractive for folks to live and make money within the City of Elko.

John Ellison, County Commissioner, Elko County, Nevada:
[Introduced himself. Read prepared statement (Exhibit G).] We are here to discuss the Consolidated Tax distribution of the unintended consequences in the fiscal year 2001 change to the "no 'one-plus'" language and its catastrophic impact with the local government of Elko County and potentially other counties within the state.

Elko County, as well as other local governments within the county, has persevered through the economic downturn related to the mining economy. Elko has eliminated jobs, reduced service levels, minimized salary increases for labor association, delayed capital equipment purchases, and raised property taxes in an attempt to hold our reduced service level.

The fiscal year 2001 legislative change in the formula created a situation of instability within the revenue distribution to Elko County. We need to have a stable revenue distribution methodology to accommodate the economic ups and downs of the mining economy in the attempt to stabilize government service levels with our citizens.

West Wendover and Jackpot represent approximately 14 percent of the countywide population. However, they are receiving 100 percent of the money in the projected amount of $2.4 million this year. If the Consolidated Tax distribution is not corrected, the same problem will occur with all new monies established by the Department of Taxation for the fiscal year 2005-2006. Currently, the Department of Taxation estimate is $1.6 million going to West Wendover, Jackpot, and Montello. The County will receive nothing; the City of Elko will receive nothing; and the majority of the other communities will receive nothing.

The county has seen declines both in population and assessed values during the early years of 2000, directly related to mining activities. Consolidated Tax revenues were declining or static until fiscal year 2003-2004 when a small increase occurred. The seriousness of the problem was magnified when an additional increase in the economy's growth within Elko County occurred during the current fiscal year.

Various meetings were held to discuss the interlocal agreement on January 10, January 12, January 20, and January 27, 2005. At the conclusion of those meetings, the Board of County Commissioners determined that an interlocal agreement was not possible. There are serious roadblocks in any local agreement, and we believe that all local governments within the county should participate in this process.

[John Ellison, continued.] We are here today to urge your passage of S.B. 38 as quickly as possible in order to affect the January 2005 distribution of the Consolidated Tax in March 2005. Thank you for your time and consideration.

Mr. Speaker, I think you had a good bill. I just think that mining, in the small rural areas, was not considered and we didn't even notice it. It was a good bill; it just got away from us.

Chairman Perkins:
Commissioner Ellison, it's good to have you here. It was unintended obviously. I don't think anybody anticipated the changes in population downward that mining counties have had, and we were certainly focused on another direction.

Mary Walker, Legislative Advocate, City of Elko, Nevada:
I sincerely appreciate your willingness to help us from the very beginning back in January, when Senator Rhoads and I came to see you. You have been supportive of the rural communities in correcting this problem. Thank you for your support and expediting the process on this bill.

Chairman Perkins:
As you present your testimony, could you address Mr. Anderson's question about where the money is actually derived from? Another thing: which counties does the bill actually affect and why? I think it would be important for the Committee to understand.

Mary Walker:
Mr. Chinnock just told me he would cover that for us. With me today is Linda Ritter, Carson City Manager, who, at the time of the establishment of the Consolidated Tax formula and the changing of the formula in 2001, worked for the County of Elko and then the City of Elko. She will talk about some of the history. Chuck Chinnock will talk about some of the fiscal impacts.

Since a lot has already been said, I will shorten my testimony and address only a couple of things. You have heard a lot about the fiscal ramification of what is going on. The Department of Taxation has estimated that, of the new monies that are coming in, called excess monies, there is approximately $2.4 million of those excess monies in Elko this year. All of that is going to West Wendover and Jackpot.

[Mary Walker, continued.] Up to the first six months of this year, $1.2 million of windfall money went to West Wendover and Jackpot. You have to give a lot of credit to the Board and the staff of City of Elko and to Elko County, Carlin, and Wells, who were the entities that lost that money. When we talked about how we were going to correct this, they had an opportunity, because Senator Raggio asked if we could go back to July 1, 2004, and look at actually taking that money back retro, and it was the county and the cities that step forward and said "No, we don't want to take any money back from them." What we want to do is start it as of January 1, 2005, which will affect the distribution, which will happen in about two weeks. One of the urgencies of getting this bill out is to affect the distribution of the January collections coming up in March. We are trying to make that time frame.

You talked a lot about the money issue. I want to talk about something else. I got phone calls from rural economic development experts who asked me, "Mary, what would happen? We have a development that is going into Elko." What would happen now if they went in and built their building and started their business, what would happen to the tax dollars that are generate there, the sales tax dollars? I said that right now, if they came into Elko or just outside of Elko, all that money would go to West Wendover and Jackpot. It would not go to serve business. The response I got back was that would send a chilling effect on economic development in those smaller jurisdictions, because those tax dollars that are being generated from that business will not go back to service that business. It is not just the money; it is also future economic development.

It does affect other mining communities. As was stated, in Lander County, all the money is going to Kingston, population 36. All you need is a couple people to go to Kingston and, all of a sudden, they have a big increase and it looks like, there's all the growth. Then, all the money goes to that growth. In Esmeralda County, all the money is going to Goldfield because they had a 0.006 percent increase in population. So, all the money is going to growth there. In Eureka, if they had any excess monies coming, it would all go their weed control district, and nothing would go to the county. That is how strange these circumstances are right now.

In our legislative solution, because this is a multi-county problem, we believe the only long-term solution available is to remedy this significant flaw in the Consolidated Tax formula through legislation. This will not only correct Elko's distribution problem, but also the problems occurring in Lander, Esmeralda, and potentially other rural mining communities.

There are two legislative changes that we are seeking. First is for those counties who have a negative population growth factor. They would have to have a five-year average of negative population growth, and then the "one-plus" factor shall be added back into the distribution formula, which stabilizes that formula. This legislative change will only affect those mining communities during the years in which they are experiencing a decline in their economy due to a downturn in mining. For fiscal year 2004-2005, this would help Elko, Lander, and Esmeralda. Next year, it will help Elko, Lander, and Lincoln. We targeted only those smaller mining communities that have a downturn, a negative population growth when those mines close, and economic problems with the mines going up and down. This doesn't occur in the larger communities. We don't have five years of negative population in any of the larger communities; it's pretty much just your mining communities.

[Mary Walker, continued.] The second change is for those counties who have a net proceeds of mines of assessed value, as determined by the Department of Taxation on July 1 of each year, of over $50 million on average for five years; then the "one-plus" factor shall be added back into the distribution formula. For those mining counties most reliant upon mining, which include Elko County, Lander County, and Nye County, the "one-plus" factor shall be added back in.

The reason for these two factors is that the assessed value net proceeds of mines would protect those rural mining communities when times are good. But, when times are bad, and the net proceeds of mines may decline, the negative population trigger would come into play and trigger the "one-plus" addition. We are trying to make this a stable formula just for the mining communities without affecting any of the larger communities in the state. That's all I have to say.

Assemblywoman Giunchigliani:
Thank you, that was very clear. I want to confirm that for trigger purposes, five years down the road, what other communities are affected? Basically, it has to be a mining community in order to kick this in because of the strange factor of the taxes that come up and go down like in Eureka County.

Mary Walker:
That is correct.

Assemblywoman Giunchigliani:
So that would be the triggers or counties or cities that could be affected in the future?

Mary Walker:
It is only the mining communities that have the negative population growth, and, well it could be one or the other. But it has to be a five-year average of the negative population and a five-year average of the net proceeds of mines greater than $50 million.

Assemblywoman Giunchigliani:
And that's what's on page 4 of the bill, basically?

Mary Walker:
Mr. Chinnock will talk about who it affects. When you look at the long term, there are no other counties that fall within that $50 million range if you took the net growths.

Chairman Perkins:
Any further questions?

Charles "Chuck" Chinnock, Director, Nevada Department of Taxation:
It is my goal to cover how this money actually gets distributed. First, you have two packets (Exhibit H) in front of you. One packet is new information and has a chart on the front with six columns and it's called Consolidation Tax. I will discuss that as part of the Tier 1 distribution that goes on in the State of Nevada. The other information (in the second packet Exhibit H) that I will be referring to should be part of the fiscal note. There are six pages of that fiscal note that the Department presented earlier in the Senate.

I want to talk about the Consolidated Tax distribution chart (Exhibit H), how that is distributed, and how you get that "final total" column to each of the counties. The footnotes refer to how each column is distributed.

First, you have the BCCRT, which is the Basic City-County Relief Tax; that is the 0.05 percent. If it is an in-state business, then the tax is distributed to the county where the sale was made. We have a few thousand out-of-state businesses, and, for those businesses that report to Nevada that do not have an actual in situ location here, but consider themselves having nexus and having sales in this state, the amount that is reported is distributed upon the population formula.

[Chuck Chinnock, continued.] The next column is the Supplemental City-County Relief Tax (SCCRT). The shaded columns are the guaranteed counties. Those counties were guaranteed a certain amount and there are adjustments that have occurred throughout the years. Any other money that is collected under the SCCRT is then distributed proportionately among those remain seven counties.

The cigarette tax: You take the first 5 mills, which is $0.10 per pack of cigarettes; that is distributed to the counties on a population basis. The liquor tax is also distributed on a per population basis, but only on the hard liquor that is sold in the State of Nevada, that amount is $0.50 per gallon. The Real Property Transfer Tax is distributed based upon the county of origin, as is the Motor Vehicle Privilege Tax. Based upon those six separate formulas, you come up with the individual amounts that are distributed in the Consolidated Tax account to each of those counties. That is the Tier 1 distribution.

On the next page, the years you see are historical years. On page 2, where you see CTX [Consolidated Tax] distribution called Second Tier, we are talking about fiscal year 2004 and 2005. What I want to talk about here is establishing the base allocation for each county. The reason we establish a base allocation is because we want to end up determining what the excess amount is going to be, which is the subject of this bill, S.B. 38.

The way that you determine the base allocation for each county is you look at the prior year's amounts. The amounts you look at are either what the prior year's base allocation was, adjusted by CPI [Consumer Price Index], or what the actual collects were from the CTX from the prior year, adjusted by CPI. You take the lower of the two. That is the amount at which you then, for the current year, offset against that. If there is a positive or "excess" amount, that is the amount that will be distributed based upon either a "no 'one-plus'" formula or a "one-plus" formula.

At the top of the columns on page 2, you will see the "No 'One-Plus' Excess" percentage of distribution and, further to the right, the "One-Plus Excess." You can see the difference for the various taxing entities of what the percentage would be for those various amounts of distribution. As discussed before by other speakers, you can see under a "no 'one-plus'" distribution that West Wendover and Jackpot get that distribution. If you accept the formula that is in S.B. 38, and has been in existence from 2001 and prior, then the "one-plus" distribution would be based on those percentages that are shown in that column.

[Chuck Chinnock, continued.] Regarding the specifics of the bill and the six attachments that are on the Fiscal Note, working backward from pages 5 and 6 (pages 14 and 15 of Exhibit H), these actually show how we came up with the population statistics. You can see the shaded averages, that any county that is in a negative category then becomes eligible under this bill. Remember, it is either $50 million of net proceeds average for 5 years or you have a negative population, or you have both of those.

Page 4 (page 13 of Exhibit H) shows the distribution of the various counties with a 5-year average of net proceeds. Those are also shaded to show those who would be eligible. Then we go to page 3 (page 12 of Exhibit H), we shaded all the eligible counties.

I will go through and explain this and put this on the record. First, the counties that have net proceeds in minerals of $50 million or more with 5-year average are Elko, Eureka, Lander, and Nye.

If you were to look at the counties that have the negative population, a 5-year percentage, they are Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Pershing, and White Pine.

We then created a chart that showed any of those counties that qualified, which would be Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Nye, Pershing, and White Pine.

As a result, we had five counties that were already in a "one-plus" category because they had no excess distribution; they were Esmeralda, Eureka, Humboldt, and Pershing. That would then bring forward Elko, Lander, Lincoln, and Nye as those being eligible, in addition, under S.B. 38, to qualify for that distribution. I presented a page as to what those numbers would be under the S.B. 38. Based upon the handout (Exhibit H), I do have in that packet each of those counties of Elko, Lander, Lincoln, and Nye.

Our earlier projection this year was that the excess distribution would be about $1.5 million. Because of the amount of sales tax that has been occurring in Elko County, we know that it could be as much as $2.4 million. So, if you multiply by those various factors, you will see what the redistribution of those amounts would be.

As Mary indicated, we do plan on distributing on March 21. We do the so-called roll on March 20, and then on March 21 we distribute to all the counties and apply the formulas that we are talking about. That gives you the time frame we are talking about.

Chairman Perkins:
Thank you for your testimony. We get the understanding of it without having the exact numbers. It is the distribution pattern that is important for the Committee to understand.

Linda Ritter, City Manager, Carson City, Nevada:
[Introduced herself.] Formerly, I was the City Manager of Elko City. I served on the Technical Oversight Committee to S.B. 557 of the 71st Legislative Session, which was the committee that did study the bill that put in the "one-plus" language. I can tell you, as a representative of Elko, if I had known this was going to happen, perhaps we could have done something at that time. When we looked at the bill and ran some scenarios, something we didn't anticipate was a population decline and a sales tax increase in the largest entity. That is counter-intuitive; that's not a scenario we ran. This was a surprise to all of us.

Elko is really experiencing a very unintended consequence of a very complicated formula, and I believe that S.B. 38 is a good solution that addresses those rural economies that are so different. Every entity has a different economic base. This solution will work. But these consequences were unintended. I would be happy to answer any of your questions.

Mary Walker:
[Introduced herself.] Just a couple things, I hope, Mr. Anderson, we responded to you. Eighty-six percent of the sales tax revenue, per the Department of Taxation's recent study, comes from the City of Elko. All of the excess distribution, the new money that is being generated, is by construction projects within the city. Unfortunately, it is going to other areas.

Assemblyman Anderson:
Mr. Chinnock's presentation, along with this document, reminded me—my fear was that there was a dollar amount relative to the gaming industry that was located in West Wendover that was being weighted into this. I just wanted to make sure that—for my own understanding—that was not part of that. This presentation clearly showed that with tax questions you have to have all the documents in front of you. So, thank you very much for a very thorough presentation.

Chairman Perkins:
Just to verify, it looks like you have two sales tax components: a cigarette and liquor component, real property transfer tax and motor vehicle privilege tax. These were all components of that.

Chuck Chinnock:
Yes, those are part of the makeup of the Consolidated Tax distribution.

Chairman Perkins:
By my count, the two ways that this bill would affect the counties, it brings nine counties into play at this point, is that accurate? Elko, Eureka, Lander, Nye, Humboldt, Lincoln, Mineral, Pershing, and White Pine?

Chuck Chinnock:
That is correct, nine counties. I didn't count White Pine only because it is distributing based upon interlocal agreement, which is also permissible. So, it is Elko, Lander, Lincoln, Nye, and we already have Esmeralda, Eureka, Humboldt, Mineral, Pershing, and White Pine would qualify.

Chairman Perkins:
Mary, you mentioned there was some discussion amongst the local governments to try and find a solution to this without having to come to the Legislature. Can you briefly describe that and what the results were?

Mary Walker:
Since they discovered this problem in December, they started working in late December with West Wendover and Jackpot in regard to this to try and come up first with an interlocal agreement. Assemblyman Carpenter did a really good job trying to come up with an agreement. Instead of going into negotiations, West Wendover decided one methodology, which didn't seem appropriate in my mind. They submitted that to the county and other cities and said we aren't negotiating, this is it. At that point, negotiations broke down, but Assemblyman Carpenter still tried and tried to get an agreement and wasn't able to.

When we had our Senate hearing, half an hour before that hearing, we received a letter from the mayor of West Wendover that they now wanted to negotiate. But that was too late. That's where we're at right now.

[Mary Walker, continued.] Another thing, this is a multi-county problem. You have other areas that need to be resolved also; not just Elko. Even if we did do an interlocal agreement, it would not have helped Lander or Esmeralda or Eureka, and those are areas that need be helped.

Andrew List, Executive Director, Nevada Association of Counties (NACO):
[Introduced himself.] This matter contained in S.B. 38 was brought before my board of directors (NACO) at their February 4 meeting. The board voted unanimously to support this piece of legislation. Some of the things that have been happening out there, for example, in Lander County, in the town of Kingston, that was the entity that gained 0.006 of population, thus received the tax windfall of excess distribution of that particular county.

I spoke with the Lander County Commission; they, year after year, support the town of Kingston. This year, unbeknownst to them, Kingston had received this particular windfall. They were funded anyway on a water tower project and some paving projects. Lander County Commission informed me if they had known of this windfall, they might have budgeted differently.

The board of directors of NACO unanimously supports this particular piece of legislation.

Bjorn "BJ" Selinder, Legislative Advocate, representing Churchill County:
[Introduced himself.] I don't have much to add other than the Churchill County Board of Commissioners reviewed this matter some time back and decided that the matter should be addressed, and it was simply a technical correction that would probably benefit those rural counties with unique economies. There certainly are differences in the economies especially of the rural communities.

Chairman Perkins:
It looks to me that Churchill County is not affected by this at this point. Are you anticipating that in the future?

Bjorn Selinder:
I doubt seriously if we would be affected in the immediate future. When you think of the fact that we would have to experience 5 years average reduction in population, in all the years that I was county manager there, I don't think that ever happened—even over one year.

Chairman Perkins:
Any further questions to the bill? Seeing none, we will close the hearing on S.B. 38.

We heard from Mr. Chinnock. This Legislature oftentimes puts a little pressure on your agency and that of other governments that have to do some budgeting. There is a bit of urgency and timeliness in this bill, so the Chair will entertain a motion.

> ASSEMBLYMAN ANDERSON MOVED TO DO PASS SENATE BILL 38 (1ST REPRINT).
>
> ASSEMBLYWOMAN GIUNCHIGLIANI SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblymen Mortenson and Parks were absent for the vote.)

Assemblyman Hettrick:
It is fair to say that we can act quickly when the solution is obvious and supported. I think that the Legislature has taken its fair share of comments about the fact that we haven't acted on certain things. But, when there is agreement and the solution is obvious, the problem needs to be addressed quickly. We do our best, and we are doing that in other issues as well.

Chairman Perkins:
I appreciate the comment. From my point, the legislation in 2001 did have some unintended consequences. We apologize for that and are happy to be part of any solution. Hopefully, you won't have to be before the Legislature on anything else like this.

Is there anything else to come before the Committee? Seeing none, we are adjourned [at 3:01 p.m.].

[Nye County Commissioners submitted a letter in support of S.B. 38 (Exhibit I).
Churchill County submitted a letter in support of S.B. 38 (Exhibit J).
Lander County submitted a letter in support of S.B. 38 (Exhibit K).
Esmeralda County submitted a letter in support of S.B. 38 (Exhibit L).
Esmeralda County submitted a letter in support of S.B. 38 (Exhibit M).
NACO submitted a letter in support of S.B. 38 (Exhibit N).

Elko Area Chamber of Commerce submitted a letter in support of S.B. 38 (Exhibit O).
City of Elko submitted a letter in support of S.B. 38 (Exhibit P).
Elko County submitted a letter in supporting of S.B. 38 (Exhibit Q).
City of Wells submitted letter supporting S.B. 38 (Exhibit R).
City of Carlin submitted letter supporting S.B. 38 (Exhibit S).]

RESPECTFULLY SUBMITTED:

____
James S. Cassimus
Committee Attaché

APPROVED BY:

____
Assemblyman Richard Perkins, Chairman

DATE:______________________________________

EXHIBITS

Committee Name: Assembly, Growth and Infrastructure

Date: March 10, 2005 Time of Meeting: 1:40 P.M.

Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda.
AB 146	**B**	Mr. Andrew List		NACO hand-out.
SB 38	**C**	Senator Dean Rhoads		Statement.
SB 38	**D**	Assemblyman Carpenter		Statement/hand-out.
SB 38	**E**	Mr. Glen Guttry		Statement.
SB 38	**F**	Mr. Chris Johnson		Statement.
SB 38	**G**	Mr. John Ellison		Statement from others.
SB 38	**H**	Mr. Chuck Chinnock		Charters and Tables.
SB 38	**I**	Nye County		Letter of support.
SB 38	**J**	Churchill County		Letter of support.
SB 38	**K**	Lander County		Letter of support.
SB 38	**L**	Esmeralda County, from the Auditor/Recorder Ofc.		Letter of support.
SB 38	**M**	Esmeralda County, from the Commissioners		Letter of support.
SB 38	**N**	Nevada Association of Counties, Executive Bd.		Letter of support.
SB 38	**O**	Elko Area Chamber of Commerce		Letter of support.
SB 38	**P**	City of Elko		Letter of support.
SB 38	**Q**	Elko County Board of Commissioners		Letter of support.
SB 38	**R**	City of Wells		Letter of support.
SB 38	**S**	City of Carlin		Letter of support.