



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** November 7, 2019

Staff Contact: Nancy Paulson, City Manager

Agenda Title: For Possible Action: Discussion and possible action regarding Senate Bill 48 (2019) (SB48), which authorizes rural Nevada counties to implement, by ordinance or ballot question, a 1 to 5 cent diesel fuel tax that could generate approximately \$400,000 in revenue annually if implemented in Carson City. (Nancy Paulson, npaulson@carson.org)

Staff Summary: SB48 authorizes an additional one to five cent per gallon tax on diesel fuel to be imposed in rural Nevada counties, including Carson City. The tax may be imposed by an ordinance adopted by a two-thirds majority of the Board of Supervisors, or by a majority of the registered voters in the county who vote on a ballot question concerning the imposition of the tax. If a 5 cent tax is implemented, the Regional Transportation Fund will receive approximately \$400,000 in additional annual revenue. Staff requests the Board of Supervisors' direction regarding whether to implement the tax in Carson City, and if so whether to proceed by ordinance or by ballot question and what the amount of the tax should be.

Agenda Action: Formal Action / Motion **Time Requested:** 20 mins

Proposed Motion

I move to direct staff to pursue a _____ cent diesel fuel tax to be [(adopted by ordinance) or (presented to the voters as a ballot question)].

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

September 11, 2019 - The Carson City Regional Transportation Commission (RTC) voted 4-1 to recommend to the Board of Supervisors that a \$0.05 diesel fuel tax by adopted by ordinance.

February 21, 2019 - The Board of Supervisors adopted a resolution supporting Senate Bill (SB) 48, a Nevada Association of Counties' sponsored bill authorizing certain local governments to impose diesel taxes under certain circumstances.

Background/Issues & Analysis

All Nevada counties are enabled to impose a nine-cent tax on regular gasoline that goes to road maintenance. In contrast, counties with populations less than 100,000 currently receive no revenue from existing diesel taxes collected at the pump. Rural counties, however, are responsible for maintaining the majority of roads in their counties and revenues from gasoline taxes alone are not enough to repair many already failing roads. Road maintenance needs in some rural counties are so great that public safety is impacted.

The following table provides a breakdown of the existing tax charged for gasoline and diesel fuel sold in Carson City by federal, state, and local governments.

TABLE 1.0 - Distribution of Fuel Revenue per Gallon Sold in Carson City

	Gasoline	Diesel
FEDERAL	\$0.1840	\$0.2440
STATE	\$0.1879	\$0.2775
CARSON CITY	\$0.1502*	\$0.0000
TOTAL	\$0.5221	\$0.5215

*2% retained by State of Nevada for administration prior to distribution to Carson City

SB48, sponsored by the Nevada Association of Counties (NACO), was drafted to help bridge the road maintenance funding gap by enabling rural boards of county commissioners to vote to impose a tax on diesel fuel up to five cents per gallon, or ask voters to approve such a tax. A portion of the new revenue collected would also go to provide much needed parking for commercial trucks so that drivers can rest in safe and designated areas. The text of SB 48 and NACO's analysis of the need for a diesel fuel tax in rural counties are provided as attachments to this staff report.

NACO also estimated the annual net proceeds for each county if a 5 cent diesel fuel tax was implemented based on FY 17-18 diesel gallons sold. Carson City's estimated annual net proceeds from a 5 cent diesel fuel tax are approximately \$400,000. NACO's estimates are included as an attachment to this staff report. Carson City's annual budget for roads is approximately \$4 million with an annual estimated funding deficit of \$15 million. While the proceeds from this tax would not fill the full funding gap, it would represent a roughly 10% increase in the City's funding for roads and would serve as a critical addition to our annual budgets.

Applicable Statute, Code, Policy, Rule or Regulation

NRS Chapter 373; NRS Chapter 225; Senate Bill 48, 80th (2019) Session

Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: Regional Transportation Fund, County Option Fuel Tax account / 2500084-414100

Is it currently budgeted? No

Explanation of Fiscal Impact: If a 5 cent diesel fuel tax is implemented, the Regional Transportation Fund is estimated to increase by approximately \$400,000 annually.

Alternatives

Do not take action regarding SB 48 and provide alternate direction to staff.

Attachments:

[Exhibit1 SB48_Nevada-2019-SB48-Enrolled.pdf](#)

[Exhibit2 SB48 White Paper v 2.pdf](#)

[Exhibit3 SB48 NACO DieselTaxGenerationbyCounty.pdf](#)

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

Senate Bill No. 48—Committee on Revenue
and Economic Development

CHAPTER.....

AN ACT relating to taxation; authorizing boards of county commissioners in certain smaller counties to impose an additional tax on diesel fuel; authorizing persons who use diesel fuel in motor vehicles operated or intended to operate interstate to request and obtain reimbursement for the tax paid on diesel fuel consumed outside this State under certain circumstances; enacting provisions governing the distribution of the portion of the proceeds of the tax on diesel fuel reserved by the Department of Motor Vehicles to pay reimbursement for the tax; revising provisions governing the projects for which certain smaller counties may use the proceeds of an additional tax on diesel fuel; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes counties to impose taxes on motor vehicle fuel. (Chapter 373 of NRS) Under existing law, the board of county commissioners of a county whose population is 100,000 or more (currently Clark and Washoe Counties) is authorized, under certain circumstances, to impose county taxes on motor vehicle fuel and various special fuels used in motor vehicles. (NRS 373.030, 373.066, 373.0663) However, the board of county commissioners of a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) is authorized to impose county taxes on motor vehicle fuel and is not authorized to impose county taxes on special fuel. (NRS 373.030, 373.065) **Section 3** of this bill authorizes the board of county commissioners of a county whose population is less than 100,000 to impose a tax on special fuel that consists of diesel fuel sold in the county in an amount not to exceed 5 cents per gallon. Under **section 3**, an ordinance imposing such a tax must be adopted by a two-thirds majority of the board of county commissioners or by a majority of the registered voters in the county who vote on a question concerning the imposition of the tax which is submitted to the voters at a general election. In addition, under **section 3**, if the tax is imposed in a county, certain sales or uses of diesel fuel which are exempt from the taxes imposed on diesel fuel under existing law, including, without limitation, sales or uses of diesel fuel to which dye has been added in accordance with existing federal and state law, are exempt from the tax imposed pursuant to **section 3**. **Sections 9-14** of this bill provide a tax imposed pursuant to **section 3** would be administered, allocated, disbursed and used in the same manner as the existing county tax imposed on motor vehicle fuel.

Section 5 of this bill includes highway truck parking, as defined in **section 2** of this bill, as a project for which a county whose population is less than 100,000 is authorized to use the proceeds of the county taxes on motor vehicle fuel and diesel fuel. **Section 4** of this bill makes a conforming change related to the definition of “highway truck parking” established by **section 2** of this bill.

The Department of Motor Vehicles is a party to the International Fuel Tax Agreement, a multistate agreement which facilitates the calculation and collection of certain fuel taxes from interstate trucking companies and others who use special



fuel (primarily diesel fuel) in vehicles operated or intended to operate interstate. (NRS 366.175) Existing law: (1) authorizes certain special fuel users to file with the Department a request for reimbursement of amounts owed to the special fuel user as a result of the Department's entering into the International Fuel Tax Agreement and the imposition of a tax on special fuels consumed outside this State; and (2) requires the Department to adopt regulations establishing a system to provide for the reimbursement of a person who files such a request. (NRS 373.083) **Section 7** of this bill authorizes a person who pays a tax imposed pursuant to **section 3** in a county in which the total number of gallons of diesel fuel sold in the county in the immediately preceding fiscal year is 10,000,000 gallons or more to file such a request and obtain from the Department a reimbursement of the tax on diesel fuel which is consumed outside this State. **Section 8** of this bill makes a conforming change related to such reimbursements.

Under existing regulations, for the purpose of paying reimbursements to special fuel users who file requests for reimbursement with the Department, the Department establishes a trust account for a county for which reimbursements are paid and deposits 20 percent of the amount of taxes collected for the county in that trust account. Money in the trust account of a county must be used to pay requests for reimbursement of the tax imposed in the county which are approved by the Department, and any money remaining in the trust account after the payment of such reimbursements, including all accrued interest, must be distributed to the county for which the trust account was created. (NAC 373.160) **Section 7** requires the Department to use this system to reimburse a person who pays a tax imposed pursuant to **section 3** in a county in which the total number of gallons of diesel fuel sold in the county in the immediately preceding fiscal year is 10,000,000 gallons or more. **Section 7** also provides that under certain circumstances, a portion of the money in the trust account for such a county may be distributed to the Department of Transportation for use to construct, maintain or repair, or any combination thereof, highway truck parking, as defined in **section 2**, in the county. **Section 6** of this bill makes a conforming change.

Existing law requires the regional transportation commission in a county whose population is less than 100,000 to submit an annual report to the Department of Motor Vehicles showing for the fiscal year the amount of receipts from county motor vehicle fuel taxes and the nature of the expenditures for each project. (NRS 277A.360) **Section 15** of this bill requires this annual report to show the amount of receipts from any tax imposed pursuant to **section 3**.

Section 16 of this bill provides that the authority to impose any tax pursuant to **section 3** and the other provisions of this bill becomes effective on July 1, 2019. However under **section 3**, an ordinance imposing the tax authorized by that section may not become effective earlier than January 1, 2020.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Section 1. Chapter 373 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5, 2 and 3 of this act.

Sec. 1.5. *“Diesel fuel” means any petroleum-based fuel meeting the ASTM D975 standards. The term includes, without*



limitation, diesel, biodiesel, as defined in NRS 366.022, biodiesel blend, as defined in NRS 366.023, biomass-based diesel, as defined in NRS 366.0235, biomass-based diesel blend, as defined in NRS 366.024, and kerosene blended with diesel.

Sec. 2. *“Highway truck parking” means a parking area with easy access to or from a highway which is designated for a truck having a gross weight of more than 10,000 pounds, in the course of the operation of the truck or during periods of mandated rest for the operator of the truck.*

Sec. 3. 1. *In a county whose population is less than 100,000 and for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance impose a tax on special fuel that consists of diesel fuel sold in the county in an amount not to exceed 5 cents per gallon.*

2. A board may not adopt an ordinance authorized by this section unless:

(a) The ordinance is approved by at least a two-thirds majority of the members of the board; or

(b) A question concerning the imposition of the tax pursuant to this section is first approved by a majority of the registered voters of the county voting upon the question, which the board may submit to the voters at any general election. The Committee on Local Government Finance shall annually provide to each city clerk, county clerk and district attorney in a county whose population is less than 100,000 forms for submitting a question to the registered voters of a county pursuant to this paragraph. Any question submitted to the registered voters of a county pursuant to this paragraph must be in the form most recently provided by the Committee on Local Government Finance.

3. A tax imposed pursuant to this section is in addition to other special fuel taxes imposed pursuant to the provisions of chapters 366 and 445C of NRS.

4. If an ordinance adopted pursuant to this section imposes the tax in an amount that is less than 5 cents per gallon, any increase in the amount of the tax must be approved in the manner set forth in subsection 2. Any such increase must not cause the amount of the tax authorized by this section to exceed 5 cents per gallon.

5. Except as otherwise provided in this subsection, any ordinance enacted pursuant to this section must provide that the tax authorized by this section, or any change in the amount of the



tax, will become effective on the first day of the second calendar month following enactment of the ordinance imposing, or changing the amount of, the tax. An ordinance adopted pursuant to this section to impose the tax authorized by this section may not become effective earlier than January 1, 2020.

6. Any tax imposed pursuant to the provisions of this section does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any diesel fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(a) As diesel fuel to which dye has been added pursuant to such law; and

(b) As diesel fuel to which dye has not been added pursuant to such law.

Sec. 4. NRS 373.020 is hereby amended to read as follows:

373.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 373.0205 to 373.029, inclusive, *and sections 1.5 and 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 373.028 is hereby amended to read as follows:

373.028 “Project” means:

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

2. In a county whose population is less than 100,000, street and highway construction, maintenance or repair, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of *highway truck parking or* any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed



primarily for use by pedestrians, and also, including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators, and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of all types of property therefor.

Sec. 6. NRS 373.080 is hereby amended to read as follows:

373.080 ~~[(A)]~~ *Except as otherwise provided in NRS 373.083, all* fuel taxes collected during any month by the Department pursuant to a contract with a county must be transmitted each month by the Department to the county and the Department shall, in accordance with the terms of the contract, charge the county for the Department's services specified in this section and in NRS 373.070, except that in the case of a fuel tax imposed pursuant to NRS 373.065, 373.066 ~~[(a)]~~, 373.0663 ~~[(1)]~~ *or section 3 of this act*, the charge must not exceed 1 percent of the tax collected by the Department.

Sec. 7. NRS 373.083 is hereby amended to read as follows:

373.083 1. A person who uses special fuel in a motor vehicle operated or intended to operate interstate and who pays any tax imposed on ~~[(special)]~~:

(a) *Special* fuels pursuant to NRS 373.066 or 373.0663 ~~[(may)]~~; *or*

(b) *Special fuel that consists of diesel fuel pursuant to section 3 of this act in a county in which the total number of gallons of diesel fuel sold in the county during the immediately preceding fiscal year, as determined by the Department, is 10,000,000 gallons or more,*

↳ *may* file with the Department a request for reimbursement of any amounts owed to the person as a result of the Department entering into an agreement pursuant to NRS 366.175 and the imposition, pursuant to NRS 373.066 or 373.0663 ~~[(1)]~~ *or section 3 of this act*, of any tax on special fuels which are consumed outside this State.

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



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

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

(c) Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663 ~~[§]~~ *or section 3 of this act*;

(d) Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate must not exceed 20 percent of the total amount of money collected by that county from any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663 ~~[§]~~ *or section 3 of this act*; and

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

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

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

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

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



5. For each county in which a tax is imposed pursuant to section 3 of this act and in which the total number of gallons of diesel fuel sold in the county during the immediately preceding fiscal year, as determined by the Department, is 10,000,000 gallons or more, the Department shall use the system established by the regulations adopted pursuant to subsection 2 to pay requests for reimbursement of the tax imposed in the county pursuant to section 3 of this act which are filed with the Department pursuant to paragraph (b) of subsection 1. The Department shall, at the end of each fiscal year, distribute the remaining balance of any money retained by the Department to pay requests for reimbursement of the tax imposed in a county described in this subsection which are filed with the Department pursuant to paragraph (b) of subsection 1 and are approved by the Department, including the amount of any accrued interest, to the county and provide the county with an accounting of the total amount of the tax imposed pursuant to section 3 of this act which was collected for the county during the fiscal year, the amount of money retained by the Department to pay requests for reimbursement filed with the Department pursuant to paragraph (b) of subsection 1, the amount of interest accrued on such money retained by the Department and the amount of reimbursements of the tax paid. Using the accounting provided by the Department, the county shall, within 45 days after receiving the accounting and the distribution of money from the Department:

(a) Deposit in the regional street and highway fund in the county treasury an amount equal to:

(1) Fifty percent of the total amount of money retained by the Department to pay requests for reimbursement filed with the Department pursuant to paragraph (b) of subsection 1 during the fiscal year, plus any accrued interest; or

(2) The entire amount of money distributed to the county pursuant to this paragraph, if that amount is less than 50 percent of the total amount of money retained by the Department to pay requests for reimbursement filed with the Department pursuant to paragraph (b) of subsection 1 during the fiscal year.

(b) Transmit to the Department of Transportation the remaining amount of the distribution received from the Department of Motor Vehicles after making the deposit required by paragraph (a), which amount must be used by the Department of Transportation only to construct, maintain or repair, or any combination thereof, highway truck parking in the county.



6. As used in this section, “special fuel” has the meaning ascribed to it in NRS 366.060.

Sec. 8. NRS 373.087 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

Sec. 9. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 *or section 3 of this act* which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.0675 and 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065, paragraph (a), (b) or (c) of



subsection 1 of NRS 373.066 or paragraph (a), (b) or (c) of subsection 1 of NRS 373.0663 which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 10. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, and except as otherwise provided in NRS 373.0675, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 **or section 3 of this act** that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 11. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065, 373.066 or 373.0663, **or section 3 of this act**, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all



obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to NRS 373.0663 must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to NRS 373.0663 are issued or incurred, but the taxes imposed pursuant to NRS 373.0663 that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.

4. At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to NRS 373.0663, the board may, except as otherwise provided in subsection 5 of NRS 373.0663, by ordinance:

(a) Continue the pledge of the increase in taxes imposed pursuant to NRS 373.0663 beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to NRS 373.0663 are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to NRS 373.0663 have been paid in full.

(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and

(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to NRS 373.0663 are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).



5. As used in this section, “applicable percentage” has the meaning ascribed to it in paragraph (b) of subsection 6 of NRS 373.0663.

Sec. 12. NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board or, in a county whose population is 100,000 or more, a commission, may, after the enactment of any ordinance authorized or required by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 ~~§~~ **or section 3 of this act**, issue revenue bonds and other revenue securities, on the behalf and in the name of the county or the commission, as the case may be:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 **and section 3 of this act** and, with respect to notes, warrants or interim debentures described in paragraphs (a) and (b) of subsection 6, the proceeds of bonds or interim debentures;

(b) Which must not be general obligations of the county or the commission or a charge on any real estate within the county; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.



3. A county or a commission as provided in subsection 2 is authorized to issue bonds or other securities without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, or, in a county whose population is 100,000 or more, a commission may, on behalf and in the name of the commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county or commission securities, and in connection with the undertaking or project, the board or the commission, as the case may be, may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

↳ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065, paragraphs (a) and (b) of subsection 1 of NRS 373.066 and paragraphs (a) and (b) of subsection 1 of NRS 373.0663 may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board



of the county consents to such use. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing the issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board or commission, as the case may be, of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified, if such bond or other security is issued by the county and not the commission.

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

Sec. 13. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030 **and section 3 of this act**, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d)



of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 *or section 3 of this act* must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

➔ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 ~~§~~ *or section 3 of this act*, except as otherwise provided in NRS 373.0675, otherwise required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each



governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

↳ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

Sec. 14. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances, or the resolution or resolutions, providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board or, in the case of bonds or other securities issued by a commission, the commission, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 ~~§~~ *and section 3 of this act*, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.



2. If the board or, in the case of bonds or other securities issued by a commission, the commission, determines in any ordinance or resolution authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 *or section 3 of this act* are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131, may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance or resolution under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

Sec. 15. NRS 277A.360 is hereby amended to read as follows:

277A.360 In counties having a population of less than 100,000, the commission shall submit an annual report to the Department for the fiscal year showing the amount of receipts from the county ~~[motor vehicle]~~ fuel ~~[tax]~~ taxes imposed pursuant to chapter 373 of NRS and the nature of the expenditures for each project.

Sec. 16. This act becomes effective on July 1, 2019.



SB48 – Authority for Rural Counties to Raise a 5-cent Diesel Tax

Background and Need

Currently, Nevada’s rural counties lack the ability to impose a tax on diesel fuel. Counties are responsible for maintaining nearly 65% of our State’s roads, yet county road funds have not kept pace with maintenance needs. In some rural counties, dedicated funding streams for roads meet only a fraction of the need for county road repairs, and the condition of some county road infrastructure is dire. Without the ability to raise revenue from diesel taxes, the gap in some rural counties between needed road repairs and available funds will only grow, and, as roads continue to deteriorate, the cost of repairs will increase, along with impacts to economic development and public safety. For example: in Lyon County the cost to fix their worst roads, those rated as failing, are \$33 million, yet available road maintenance funds are \$2 million. In Humboldt County flooding in 2015 destroyed roads and bridges in downtown Winnemucca that have yet to be repaired. Other rural counties are discussing removing existing street pavement and replacing it with dirt roads because of the reduced cost to repair and maintain dirt roads. Elko County has a two million dollar annual short fall in their road maintenance budget, even after a voter approved gasoline tax increase.

Taxpayer Equity

In the past the Nevada Legislature has given rural County Commissions the authority to impose a 5-cent tax on gasoline; however, rural counties do not have the authority to impose a corresponding tax on diesel fuel. Due to this current disparity, in rural counties, owners of gasoline vehicles contribute to local road construction and maintenance while owners of diesel vehicles do not.

Disparity in Cost of Diesel Fuel

In September 2018, the following prices were charged for a gallon of diesel:

Washoe County:

TA Sparks Truck Stop	\$3.82	
<i>Petro Sparks</i>	<i>\$3.75</i>	<i>Average: \$3.78</i>

Lyon County:

<i>Fernley Pilot</i>	<i>\$3.75</i>	
<i>Fernley Loves</i>	<i>\$3.48</i>	<i>Average: \$3.75</i>

Based on this information, consumers are paying nearly the same in Washoe County as they are in neighboring Lyon County for a gallon of diesel. However, in Washoe County, a 29-cent diesel tax (based on indexing) is being collected and used for local road maintenance. While in Lyon County, though the station owner charges a little less to incentivize trucks to fill up before the get to Reno/Sparks, there is no mechanism to collect a local tax on diesel fuel. In Lyon County, instead of using that 29 cents for road maintenance, it becomes a windfall for the station owner.

Impact on County Economic Development

Funding for streets and roadways is critical to the economic development needs of rural counties. An efficient and well-maintained network of roads attracts new business, keeps residents safe and protects the environment. Existing businesses in rural counties are already

being impacted by the condition of roads, and economic development efforts to bring new businesses into rural Nevada will continue to be impacted.

Proposal

SB48, would enable rural county commissions to impose a diesel tax of up to 5 cents, an option already available to Nevada's urban counties. Any such vote would have to be approved by 2/3 of the members of the county commission. Alternatively, the bill would also enable county commissions to submit a binding question to county voters on raising a 5-cent diesel tax. Additionally, in any county that chooses to raise the tax and subsequently sells greater than 10 million gallons of diesel, there is a provision to require an allocation to NDOT of up to 10% of the total diesel tax proceeds in the county - these dollars would pay for the construction of commercial truck parking along State highways. Truck parking would help ensure that truckers have safe rest areas away from residential neighborhoods.

NACO SB 48 - 5 Cent Diesel Tax Generation in Rural Counties.

Diesel Tax would be split between rural local governments based on the existing RTC Gas Tax Distribution.

COUNTY	FY 17-18 CLEAR DIESEL GALLONS SOLD	PROPOSED 1 CENT DIESEL TAX GENERATES	PROPOSED 5 CENT DIESEL TAX GENERATES	LESS: IFTA/TRUCK PARKING	ANNUAL NET PROCEEDS
CARSON CITY	\$7,889,062	\$78,891	\$394,453		\$394,453
CHURCHILL	\$5,982,390	\$59,824	\$299,120		\$299,120
DOUGLAS	\$5,738,089	\$57,381	\$286,904		\$286,904
ELKO	\$42,288,840	\$422,888	\$2,114,442	\$211,444	\$1,902,998
ESMERALDA	\$76,504	\$765	\$3,825		\$3,825
EUREKA	\$955,619	\$9,556	\$47,781		\$47,781
HUMBOLDT	\$21,794,699	\$217,947	\$1,089,735	\$108,973	\$980,761
LANDER	\$4,676,736	\$46,767	\$233,837		\$233,837
LINCOLN	\$1,341,978	\$13,420	\$67,099		\$67,099
LYON	\$51,941,430	\$519,414	\$2,597,072	\$259,707	\$2,337,364
MINERAL	\$2,131,178	\$21,312	\$106,559		\$106,559
NYE	\$8,293,617	\$82,936	\$414,681		\$414,681
PERSHING	\$12,076,885	\$120,769	\$603,844	\$60,384	\$543,460
STOREY	\$5,492,079	\$54,921	\$274,604		\$274,604
WHITE PINE	\$8,100,752	\$81,008	\$405,038	-	\$405,038
RURAL TOTAL	<i>\$178,779,858</i>	<i>\$1,787,799</i>	<i>\$8,938,993</i>	<i>\$640,509</i>	<i>\$8,298,484</i>