

*Financing, Construction and Maintenance
of Highways and Roads in Nevada*



*Legislative Counsel
Bureau*

*Bulletin No.
95-2*

September 1994

**STUDY CONCERNING THE FINANCING OF THE
CONSTRUCTION, MAINTENANCE AND REPAIR
OF HIGHWAYS AND ROADS IN NEVADA**

BULLETIN NO. 95-2

**LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA**

SEPTEMBER 1994

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SUMMARY OF RECOMMENDATIONS

This summary includes the recommendations reached by the Legislative Commission's Committee to Study the Financing of the Construction, Maintenance and Repair of Highways and Roads in this State. The committee recommends:

1. **THAT A.B. 760 OF THE 1993 SESSION, WHICH IMPOSES A WEIGHT DISTANCE TAX OF FROM 3.8 TO 8.2 CENTS PER MILE DEPENDING ON THE DECLARED GROSS WEIGHT OF THE VEHICLE FOR ALL VEHICLES IN EXCESS OF 26,000 LBS, BE REDRAFTED FOR CONSIDERATION BY THE 1995 LEGISLATURE. (BDR 58-367)**
2. **THAT CHAPTER 366 OF THE NRS BE AMENDED TO MOVE THE POINT OF COLLECTION FOR THE DIESEL FUEL TAX TO THE "TERMINAL RACK LEVEL" AND TO CHANGE THE PROVISIONS REGARDING THE "FLOAT" ON THE TAXES COLLECTED AND THE ALLOCATION OF THE TWO PERCENT COLLECTION FEE TO ENSURE THAT THE FUEL DEALERS ARE NOT FINANCIALLY HARMED BY THE CHANGE. (BDR 32-368)**
3. **THAT CHAPTER 365 AND 373 OF THE NRS BE AMENDED TO TRANSFER THE COLLECTION OF THE GASOLINE TAX FROM THE DEPARTMENT OF TAXATION TO THE DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY AND TO CHANGE THE COLLECTION POINT OF THE TAX TO THE "TERMINAL RACK LEVEL" TO BE CONSISTENT WITH RECOMMENDATION NO. 2. (BDR 32-369)**
4. **THAT THE 22 PERCENT LIMIT ON THE COLLECTION COSTS OF MOTOR VEHICLE TAXES AND FEES IMPOSED ON THE DMV & PS BY SUBSECTION 4 OF NRS 408.235 BE REPEALED. (BDR 35-370)**
5. **THAT NRS 481.145, WHICH ALLOCATES \$6 FOR EACH VEHICLE REGISTERED IN NEVADA TO A HIGHWAY PATROL SPECIAL ACCOUNT IN THE HIGHWAY FUND TO PAY FOR ADDITIONAL TROOPERS, BE REPEALED TO ALLOW FOR THOSE POSITIONS TO BE FUNDED THROUGH THE REGULAR APPROPRIATIONS PROCESS AND THAT THE REMAINING BALANCE IN THE SPECIAL ACCOUNT BECOME UNEARMARKED IN THE HIGHWAY FUND. (BDR 35-370)**
6. **THAT NRS 482.313 BE AMENDED TO CHANGE THE DISTRIBUTION OF THE STATE FEE ON THE SHORT-TERM LEASE OF PASSENGER VEHICLES FROM THE GENERAL FUND TO THE HIGHWAY FUND. (BDR 43-371)**

7. THAT NRS 366.197 BE AMENDED TO DELETE THE REFERENCE TO LIQUEFIED PETROLEUM GAS (LPG) IN THE CONVERSION FORMULA AND THAT NRS 366.190 BE AMENDED TO SET THE RATE OF TAX FOR LPG AT 6.7 CENTS PER GALLON. (BDR 32-372)
8. THAT LEGISLATION AUTHORIZING THE ESTABLISHMENT OF TOLL ROADS AND TOLL BRIDGES IN NEVADA BE ENACTED. (BDR 35-373)
9. THAT A BILL TO AMEND CHAPTER 482 OF THE NRS TO ESTABLISH A TIERED REGISTRATION FEE SCHEDULE FOR HEAVY VEHICLES GROUPED ON THE BASIS OF THE MILES A VEHICLE TRAVELS BE DRAFTED FOR CONSIDERATION BY THE 1995 LEGISLATURE. (BDR 43-374)
10. THAT A STATUTE BE ENACTED TO REQUIRE THE NEVADA DEPARTMENT OF TRANSPORTATION TO CONTRACT FOR A HIGHWAY COST RESPONSIBILITY STUDY TO BE CONDUCTED BY AN OUTSIDE CONSULTANT AND COMPLETED PRIOR TO THE START OF THE 1997 LEGISLATIVE SESSION. (BDR S-375)
11. THAT SUBSECTION 2 OF NRS 484.743 BE AMENDED TO REMOVE THE LIMIT BASED ON THE COSTS OF ISSUING OVERSIZE VEHICLE PERMITS TO ALLOW THE STATE TRANSPORTATION BOARD TO ESTABLISH A FEE SCHEDULE FOR SUCH PERMITS TO REFLECT THE DAMAGE DONE TO HIGHWAYS BY THESE VEHICLES. (BDR 35-370)
12. THAT THE GOVERNOR NOT PROPOSE AND THE LEGISLATURE NOT APPROVE ANY ADDITIONAL EXEMPTIONS OR EXCLUSIONS FROM STATE FUEL TAXES.

**REPORT TO THE 68TH SESSION OF THE NEVADA LEGISLATURE
BY THE LEGISLATIVE COMMISSION'S COMMITTEE
TO STUDY THE FINANCING OF THE CONSTRUCTION,
MAINTENANCE AND REPAIR OF HIGHWAYS IN THIS STATE**

I. INTRODUCTION

The following is submitted in compliance with Assembly Bill No. 378 (Chapter 586, Statutes of Nevada 1993) which directed the Legislative Commission to conduct a study concerning the financing of the construction, maintenance and repair of highways and roads in this state. The resolution requires that the Legislative Commission report the results of the study and any recommended legislation to the 68th session of the Nevada Legislature. (AB 378 is included as Appendix A.)

The resolution directed that a committee consisting of eight members appointed by the Legislative Commission conduct the study, including four members of the Senate, with two members each appointed from the standing committees on transportation and taxation, and four members of the Assembly, with two members each from the standing committees on transportation and taxation.

Members of the Committee appointed to conduct the study were:

Assemblyman Rick Bennett, Chairman	
Senator Leonard V. Nevin	Senator William R. O'Donnell
Senator Dean A. Rhoads	Senator Raymond C. Shaffer
Assemblyman C.W. Tom Collins, Jr.	Assemblyman Lynn Hettrick
Assemblyman John B. (Jack) Regan	

Legislative Counsel Bureau staff services for the committee were provided by Birgit Baker, Program Analyst, Fiscal Analysis Division; Ted Zuend, Deputy Fiscal Analyst, Fiscal Analysis Division; Tom Linden, Principal Deputy Legislative Counsel, Legal Division; and Terry Cabauatan, Secretary, Fiscal Analysis Division.

This report presents the findings and recommendations of the committee. The information which bears directly upon the recommendations is included either in the narrative or appendices. All supporting documents and meeting minutes are available from the Fiscal Analysis Division of the Legislative Counsel Bureau.

The Legislative Commission, at its meeting on September 14, 1994, accepted this report and ordered it and its recommendations transmitted to the members of the 1995 Legislature for consideration and appropriate action.

II. BACKGROUND

The State of Nevada began road construction in 1911 and by 1917 the Legislature had enacted the State Highway Law, which created the original Department of Highways. The act made Nevada eligible to receive federal highway funds. These funds, in combination with state funds, have resulted in more than 5,400 miles of state roads and highways being built. While representing only 12 percent of the public road mileage in Nevada, the state system carries an estimated 72 percent of all traffic and nearly 90 percent of all heavy trucks. The Nevada Department of Transportation (NDOT) now estimates that the cost to replace only the system's pavement surface exceeds \$2.7 billion.

The Legislature first enacted a gasoline tax in 1923 to fund the state highway system. To this day, unlike many other states, Nevada funds highway programs solely from fuel taxes, other dedicated highway-user revenues and federal funds. Federal funds are available only for reimbursement of expenditures on approved projects and may not be used for routine maintenance, administration or other non-project related costs.

Because of a generous federal-aid program, new highway construction remained a priority for the state through the 1960's. Shortly thereafter, however, a combination of circumstances led to a breakdown in the state's highway financing system and reevaluation of the state's priorities. Fuel shortages and increasing fuel prices prompted the development of more fuel efficient cars and resulted in a much flatter fuel consumption trend. Also, double-digit inflation diminished the purchasing power of the construction dollar at the same time that Nevada's rapid growth strained an aging street and highway system. By 1980, with the diesel tax at only 6 cents per gallon and the state share of the gasoline tax at only 4.5 cents per gallon, the state had experienced rapid pavement deterioration, which created a massive backlog of pavement rehabilitation work.

The 1980's saw the NDOT make pavement rehabilitation the priority for the highway program. The Legislature conducted interim studies of highway maintenance and funding after the 1979 and 1985 sessions (see Legislative Counsel Bureau Bulletin No. 81-16 and 87-23). Fuel tax increases were approved in 1981, 1985, 1987 and 1991 bringing the diesel tax rate to its current level of 27 cents per gallon and the state share of the gasoline tax to 17.65 cents per gallon. During the same time period significant changes were made to registration and motor carrier fees. Nevertheless, projected revenues remain far short of the long-term needs of the state highway system.

In 1984, the department conducted its first cost allocation study designed to determine whether vehicles of different classes sizes and weight were being fairly taxed. The study, which has been updated every two years since, examines all state highway-user fees, including vehicle registration, title and license fees; drivers license fees; motor carrier fees; and the taxes on gasoline and special (including diesel) fuels. The 1984 study reported that heavy vehicles (over 10,000 pounds) were substantially underpaying their cost

responsibility. Tax and fee revisions made by the 1985 and 1987 sessions of the Legislature, according to NDOT data, achieved tax equity among the highway users. Among the changes enacted was the imposition of a mileage tax on motor carriers that did not pay full registration fees.

This situation was quickly disrupted by a U.S. Supreme Court decision which held that flat fees not apportionable to interstate carriers violated the "commerce clause" of the U.S. Constitution. In response to a similar challenge to the Nevada fee structure, the 1989 Legislature approved A.B. 943 which nearly tripled registration fees on vehicles over 26,000 pounds, increased the special fuel tax by two cents per gallon and repealed the mileage fee. The effects of these changes was a significant reduction in total revenues from motor carriers and a shift of the burden to intrastate carriers. The NDOT estimates that the per mile taxes and fees on intrastate carriers is now double that of the interstate carriers. The current cost allocation system is considered to be unfair by the department and many intrastate carriers.

The department has proposed that the Legislature adopt a weight-distance tax to both improve the equity among highway users and to provide a funding mechanism to better meet the long-term needs of the state highway system. The Nevada Motor Transport Association (NMTA) and others strongly oppose the imposition of this so-called third-tier tax. Opposition to a weight-distance tax, in part, stems from a concern that tax evasion will increase, resulting in more inequity among users and less revenue for roads.

III. DISCUSSION OF RECOMMENDATIONS

This summary represents the recommendations reached by the committee to study the financing of the construction, maintenance and repair of highways and roads in this state.

1. The most controversial issue considered by the committee is whether or not the state should reimpose a weight-distance tax on heavy vehicles. The NDOT strongly believes that this is the only means to fairly assign cost responsibility among highway users and to ensure an adequate revenue base for highways funding in the future. Equally strongly, the NMTA opposes the tax and maintains that it would be difficult to enforce and that other means to address the inequities in the highway tax and fee system could be instituted. The department, however, points out that the state effectively enforced a weight-distance tax as recently as 1989. The association, in rebuttal, notes that states have been moving away from the tax and that certain studies have placed evasion at as much as 30 percent.

Most of the committee agrees that the tax, if properly enforced, would provide a mechanism to assign the proper cost responsibility to the various highway users. Most members also expressed reservations concerning the potential evasion

problems associated with the imposition of such a tax and the possibility that costs of enforcement of the tax could be much greater than those under the current tax and fee structure. The committee believes that costs should be equitably distributed among the highway users and that a weight-distance tax can achieve that goal. Without recommending that the tax be imposed, the committee supported sending the proposal on for a thorough review by the 1995 Legislature. The committee, therefore, recommends:

THAT A.B. 760 OF THE 1993 SESSION, WHICH IMPOSES A WEIGHT DISTANCE TAX OF FROM 3.8 TO 8.2 CENTS PER MILE DEPENDING ON THE DECLARED GROSS WEIGHT OF THE VEHICLE FOR ALL VEHICLES IN EXCESS OF 26,000 LBS. BE REDRAFTED FOR CONSIDERATION BY THE 1995 LEGISLATURE.
(BDR 58-367)

2. After receiving considerable information on the subject from a variety of sources, the committee determined that moving the point of collection of the tax on diesel fuel to the "terminal rack level" (first wholesale point within state) could increase highway fund revenues by as much as \$4 million per year and simplify the collection of the tax. The committee, therefore, recommends:

THAT CHAPTER 366 OF THE NRS BE AMENDED TO MOVE THE POINT OF COLLECTION FOR THE DIESEL FUEL TAX TO THE "TERMINAL RACK LEVEL" AND TO CHANGE THE PROVISIONS REGARDING THE "FLOAT" ON THE TAXES COLLECTED AND THE ALLOCATION OF THE TWO PERCENT COLLECTION FEE TO ENSURE THAT THE FUEL DEALERS ARE NOT FINANCIALLY HARMED BY THE CHANGE. (BDR 32-368)

3. Gasoline taxes are currently collected by the department of taxation. Because the department allocates administrative costs based on the amount of the taxes collected, rather than the actual costs of collecting the taxes, gasoline tax revenues effectively subsidize the general fund by about \$900,000 per year. Consolidating the collection of taxes into a single agency at a single level should also result in increased administrative efficiencies and a lesser compliance burden on taxpayers. The committee, therefore, recommends:

THAT CHAPTER 365 AND 373 OF THE NRS BE AMENDED TO TRANSFER THE COLLECTION OF THE GASOLINE TAX FROM THE DEPARTMENT OF TAXATION TO THE DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY AND TO CHANGE THE COLLECTION POINT OF THE TAX TO THE "TERMINAL RACK LEVEL" TO BE CONSISTENT WITH RECOMMENDATION NO. 2.

4. The DMV & PS, unlike other state agencies, is subject to a funding limit for most of its operations based on the amount of tax and fee revenues it collects. The existing

limit of 22 percent applies only to revenues collected for the highway fund and excludes other revenues collected such as privilege taxes for local governments and sales taxes and car rental fees for the state general fund. The limit is somewhat arbitrary because it does not consider the conditions during a particular biennium. For example, during a period when highway taxes or fees are increased substantially, it may be easier to get within the limit because costs, such as employee salaries, may not be going up accordingly. During other budgetary periods, costs may be rising even though fees and taxes are not being increased, and the department may have problems developing a budget within the limit.

Some highway users and taxpayer representatives support repeal of the limit because they believe it may also act as a floor on expenditures. It is felt that the DMV & PS budget may not receive the scrutiny it would otherwise get without the limit. In some cases, supporters of repeal believe the limit may trigger fee or tax increases which are approved only to ensure that DMV & PS remains within that limit.

The committee generally agrees that the 22 percent cap is arbitrary and that the DMV & PS budget should be funded based on its needs during a particular biennium. The committee, therefore, recommends:

THAT THE 22 PERCENT LIMIT ON THE COLLECTION COSTS OF MOTOR VEHICLE TAXES AND FEES IMPOSED ON THE DMV & PS BY SUBSECTION 4 OF NRS 408.235 BE REPEALED. (BDR 35-370)

5. Nevada Revised Statutes 481.145 provides that \$6 for each vehicle registered in the state be allocated to a highway patrol special account for the support of some troopers. The allocation, which is applied equally to all registrations even those that pay pro-rated fees, has usually resulted in more revenue than necessary to fund the supplementary positions. The excess funds have often been applied to other purposes. Testimony on the issue indicated that there is no compelling reason to fund the positions this way and that in the upcoming biennium total revenue from the \$6 allocation will be inadequate to continue to fund the same number of positions. Abolishment of the account will result in a one-time gain of roughly \$2.75 million for the highway fund. The committee believes that the account should be eliminated and, therefore, recommends:

THAT NRS 481.145, WHICH ALLOCATES \$6 FOR EACH VEHICLE REGISTERED IN NEVADA TO A HIGHWAY FUND SPECIAL ACCOUNT TO FUND ADDITIONAL TROOPERS, BE REPEALED TO ALLOW FOR THOSE POSITIONS TO BE FUNDED THROUGH THE REGULAR APPROPRIATIONS PROCESS AND THAT THE REMAINING BALANCE IN THE SPECIAL ACCOUNT BECOME UNEARMARKED IN THE HIGHWAY FUND. (BDR 35-370)

6. Assembly Bill No. 323 of the 1993 session was originally approved by the Assembly at the urging of the car rental industry. The bill at that time imposed a new fee on the short-term lease of a passenger vehicle and dedicated the state revenue to the highway fund. The measure was amended in the Senate and the revenue was redirected to the state general fund. The committee believes that the fee, which raises about \$5.5 per year for the state, more properly belongs in the highway fund. The committee, therefore, recommends:

THAT NRS 482.313 BE AMENDED TO CHANGE THE DISTRIBUTION OF THE STATE FEE ON THE SHORT-TERM LEASE OF PASSENGER VEHICLES FROM THE GENERAL FUND TO THE HIGHWAY FUND. (BDR 43-371)

7. Nevada Revised Statutes 366.197 contains a fictitious conversion formula for liquefied petroleum gas (LPG) that reduces the taxable volume of the product by almost 71 percent and, consequently, the effective tax rate to 6.7 cents per gallon. The committee believes that the statutory rate of tax should be the true rate and that the conversion formula should be eliminated. The committee, therefore, recommends:

THAT NRS 366.197 BE AMENDED TO DELETE THE REFERENCE TO LPG IN THE CONVERSION FORMULA AND THAT NRS 366.190 BE AMENDED TO SET THE RATE OF TAX FOR LPG AT 6.7 CENTS PER GALLON. (BDR 32-372)

8. Outdated provisions relating to the establishment of toll roads in Nevada were repealed by the 1989 Legislature. The committee believes, however, that the use of tolls is a viable option for financing the construction and maintenance of roads and bridges in the state and that this option should not be precluded because of the lack of enabling legislation. The committee, therefore, recommends:

THAT LEGISLATION AUTHORIZING THE ESTABLISHMENT OF TOLL ROADS AND TOLL BRIDGES IN NEVADA BE ENACTED. (BDR 35-373)

9. The committee recognized that the existing tax and fee schedule in Nevada places a disproportionately greater financial burden per mile on heavy vehicles when their annual miles traveled are low. Many of these vehicles are intrastate carriers. The imposition of a weight-distance tax, which the committee recognizes may pose both practical and political problems, is one way to address this problem. Another possible approach, as suggested by the NMTA, is to establish a three-tier registration schedule with fees reduced for lower mileage vehicles. Colorado has recently enacted such a plan, and the committee feels that a similar alternative to assist low-mileage carriers should be considered if a weight-distance tax is not established in Nevada. The committee, therefore, recommends:

THAT A BILL TO AMEND CHAPTER 482 OF THE NRS TO ESTABLISH A TIERED REGISTRATION FEE SCHEDULE FOR HEAVY VEHICLES GROUPED ON THE BASIS OF THE MILES A VEHICLE TRAVELS BE DRAFTED FOR CONSIDERATION BY THE 1995 LEGISLATURE. (BDR 43-374)

10. The NDOT has been conducting highway studies for more than a decade to determine the cost responsibility of various categories of highway users. The NMTA, however, has not been convinced that the Nevada studies accurately reflect the cost responsibility of those groups. Because "outside" studies have been satisfactorily completed in other states, the committee believes that a single study by an outside party will either confirm the work done by NDOT or suggest improvements to the NDOT methodology and, thereby, satisfy the highway users. The committee, therefore, recommends:

THAT A STATUTE BE ENACTED TO REQUIRE THE NDOT TO CONTRACT FOR A HIGHWAY COST RESPONSIBILITY STUDY TO BE CONDUCTED BY AN OUTSIDE CONSULTANT AND COMPLETED PRIOR TO THE START OF THE 1997 LEGISLATIVE SESSION. (BDR S-375)

11. Current law provides that the board of directors of NDOT may establish fees for permits for oversize vehicles. The amount of the fee, however, is limited to the actual costs associated with issuing the permit. The U.S. Department of Transportation has been urging states to adopt fees for such permits that accurately reflect the costs of the damage done to the highways by such superloads. The committee believes that this is a reasonable policy to adopt. The committee, therefore, recommends:

THAT SUBSECTION 2 OF NRS 484.743 BE AMENDED TO REMOVE THE LIMIT BASED ON THE COSTS OF ISSUING OVERSIZE VEHICLE PERMITS TO ALLOW THE STATE TRANSPORTATION BOARD TO ESTABLISH A FEE SCHEDULE FOR SUCH PERMITS TO REFLECT THE DAMAGE DONE TO HIGHWAYS BY THESE VEHICLES. (BDR 35-370)

12. The Nevada highway system, unlike those of many states, is almost totally funded from user fees in the form of fuel taxes and registration fees. The committee believes that no action should be undertaken that may result in the reduction of revenue available for the construction and maintenance of highways in Nevada. The committee, therefore, recommends:

THAT THE GOVERNOR NOT PROPOSE AND THE LEGISLATURE NOT APPROVE ANY ADDITIONAL EXEMPTIONS OR EXCLUSIONS FROM STATE FUEL TAXES.

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**APPENDIX A: Assembly Bill No. 378 of the 1993
Legislative Session**
(Chapter No. 586, Statutes of Nevada, 1993)

Assembly Bill No. 378—Assemblymen Humke, Dini, Hettrick, Marvel, Regan, Tiffany, Gregory, Ernaut, Chowning, Collins, McGaughey, Schneider, Carpenter, Petrak, Toomin, Heller, Augustine, Neighbors, Arberry, Spitler, Lambert, Gibbons, Smith, Porter, Garner, Perkins, Giunchigliani, Haller, Bennett, Segerblom, Wendell Williams, Price, de Braga, Myrna Williams and Bonaventura

CHAPTER.....

AN ACT relating to transportation; directing the legislative commission to conduct an interim study concerning the financing of the construction, maintenance and repair of highways and roads in this state; providing an appropriation; and providing other matters properly relating thereto.

WHEREAS, The present tax and funding structure for highways in the State of Nevada has been eroded because of more fuel-efficient vehicles and the instability of available federal money; and

WHEREAS, The department of transportation has reported a significant shortfall in its ability to meet its long-term plan for the construction and maintenance of highways and roads in this state; and

WHEREAS, The need for the repair and maintenance of these highways and roads has been escalated because of the growth of population, the expansion of businesses and the increase in the use of our highways for interstate travel; and

WHEREAS, The present tax and fee structure for funding highway construction, maintenance and repair lacks stability and has become inadequate in addressing this critical component of the state's infrastructure; now, therefore,

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

Section 1. 1. The legislative commission shall appoint a committee to conduct an interim study concerning the financing of the construction, maintenance and repair of highways and roads in this state.

2. The committee must consist of:

(a) Four members of the Senate, with two members appointed from the standing committee on transportation and two members appointed from the standing committee on taxation; and

(b) Four members of the Assembly, with two members appointed from the standing committee on transportation and two members appointed from the standing committee on taxation.

Sec. 2. 1. The committee may appoint an advisory committee consisting of members of the general public as necessary to carry out the study. The committee shall not appoint any person to the advisory committee who has:

(a) A substantial financial interest in, or whose employment involves, the construction, maintenance or repair of highways or roads in this state; or

(b) A substantial financial interest in, or connection to, any business or industry involving transportation on the highways of this state which, because of its substantial use of these highways or the weight of its vehicles, may be

subject to pay substantially more than the general public in fees and taxes imposed to finance the construction, maintenance or repair of these highways.

2. The members of the advisory committee serve without salary, but are entitled, for attendance at a meeting of the committee created pursuant to this section or section 1 of this act, to payment from the legislative fund for the per diem allowances and travel expenses provided to state officers and employees generally.

Sec. 3. 1. The study must be completed on or before September 1, 1994.

2. The legislative commission shall report the results of the study and any recommended legislation to the 68th session of the Nevada legislature.

Sec. 4. 1. There is hereby appropriated from the state highway fund to the legislative fund the sum of \$15,000, which may be used only to carry out the provisions of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1995, and reverts to the state highway fund as soon as all payments of the money committed have been made.

Sec. 5. This act becomes effective upon passage and approval.

**APPENDIX B: List of Witnesses Appearing Before
the Committee.**

Appendix B

INDIVIDUALS PROVIDING TESTIMONY TO THE COMMITTEE

Mr. Ray Barnhart
Austin, Texas

Captain John Bawden
Nevada Highway Patrol

Mr. John Bedole
Nevada Chapter
Associated General Contractors

Mr. Chris Bennett representing
CB Concrete, Ri-Lite Aggregate,
Capital City Concrete and
Nye Christensen Company

Mr. Dave Berry
Swift Transportation

Ms. Sherry Blackwell
Dept of Motor Vehicles & Public Safety

Mr. Chuck Bosch
NV Department of Transportation

Mr. Jack Burns
Truck Stops of Nevada

Mr. Edwin C. Douglas
Northern Nevada Truck Stop Operators

Mr. Daryl Capurro
Nevada Motor Transport Association

Mr. Pat Carter
Roadway Express, Inc.

Dr. Ray Chamberlain
American Trucking Associations

Mr. Gary Costello
C & P Enterprises
Clark County

Mr. Robert Crowell
representing Coastal Chem

Ms. Joanna Davis
John Davis Trucking Company

Mr. Garth Dull
NV Department of Transportation

Mr. Robert E. Farris
Int'l Consultant on Transportation Issues

Mr. Jim Ensley
Southwest Gas Corporation

Mr. Julian Fitzgerald
Federation of Tax Administrators

Mr. Pete Fundis
Fundis Trucking

Ms. Yolanda G. Gonzalez
Department of Taxation

Mr. Larry Gilroy
Ward Transport

Mr. Jay Gore
Reno/Sparks Ready Mix

Mr. Bill Gosnell
Admin. Services, DMV & PS

Mr. Mike Grogan
MRP Construction

Mr. Ron Hill
NV Department of Transportation

Mr. Warren Hoemann
Yellow Corporation

Ms. Deborah Johnson
Western Highway Institute

Mr. Tim King
Sierra Pacific Power Company

Mr. Bill Knox
United Parcel Service

Mr. Paul Kroh

Mr. Peter Krueger
NV Petroleum Marketers Association

Mr. James Link
Federal Highway Administration

Mr. Chuck Maguire
General Motors - Sparks

Mr. Charles Manchester

Mr. Robert McKee
International Fuel Tax Assoc, Inc.

Ms. Pam Miller
Associated General Contractors
of Nevada (AGC)

Mr. Frank Napierski
Naps Drayage

Mr. James P. Walsh, Jr.
J-V West

Ms. Jan Pruet
Frehner Trucking

Mr. Steve Richards
Yellow Corporation

Mr. David Roitburd
Yellow Freight

Mr. Lee Rough
Q & D Construction

Mr. Milton Schwartz
Las Vegas Yellow Cab Company

Mr. Ray Sparks
Dept of Motor Vehicles & Public Safety

Mr. Jack Tedford
Jack N. Tedford, Inc.

Mr. Wayne Teglia
NV Department of Transportation

Mr. Garry Thielen
M-I Drilling Fluids Company

Ms. Stephanie Tyler
Regional Transportation Commission

Ms. Carole Vilardo
Nevada Taxpayers Association

**APPENDIX C: "An Overview of the Allocation of
Cost Responsibilities for Constructing
and Maintaining Nevada's Highways"**

State of Nevada
Department of Transportation

AN OVERVIEW OF THE ALLOCATION OF COST RESPONSIBILITIES
FOR CONSTRUCTING AND MAINTAINING NEVADA'S HIGHWAYS

Principles of Cost Allocation

The Nevada Department of Transportation has adopted a three-point philosophy with respect to highway user fees and allocation of cost responsibility for constructing, maintaining and operating state highways.

1. The primary cost responsibility to construct, maintain and administer the state highway system should be borne by those using the system.
2. Those fees assigned to highway users should be in proportion to the costs for which they are responsible.
3. Revenues from road user fees should, to the extent possible, be utilized for the construction and maintenance of Nevada's highways.

Work Categories (Expenditures)

There are three work categories used in the analysis of highway cost responsibility; Construction, Maintenance and Other. Elements included in each work category are as follows:

Construction: Right-of-way, grade and drain, new pavement, pavement overlays, new structures, rehabilitated structures, replaced structures, roadside and traffic services. (Preliminary engineering and Construction engineering are prorated into the construction elements.)

Maintenance: Pavement structures, roadside and traffic services.

Other: Department of Motor Vehicles appropriations (including the Nevada Highway Patrol), Public Service Commission, Attorney General, Department

of Taxation, Budget Division and the Nevada Department of Transportation Executive and Support Services.

Budget and Study Period

Nevada's cost allocation studies encompass a budget period of two fiscal years. Responsibility is determined with a ten-year planning period, using NDOT's Highway System Plan (Short Range-Long Range/3 Year-10 Year). Only state user-fee contributions and expenditures are considered. No federal or local matching funds are included.

Vehicle Classifications Used in the Studies are Basic and Heavy

A basic vehicle is defined as a vehicle with a declared gross vehicle weight of 10,000 pounds or less. Heavy vehicles are those of more than 10,000 pounds. In general, basic vehicles are individually owned, while heavy vehicles are commercially owned and operated. The analysis of contribution and responsibility is based on the classification of vehicles as follows:

Basic Vehicles	Passenger Cars
	Motorcycles
	Pick Ups
	Vans
	Trucks - 10,000 lbs. or less
	Buses - 10,000 lbs. or less
Heavy Vehicles	Buses - Over 10,000 lbs.
	Single Unit Trucks
	Tractors with Semi Trailers
	Trucks with Full Trailers

Heavy Vehicles (Cont.) Tractors with Multi Trailers

Trucks with Multi Trailers

Responsibility (Expenditures)

Construction and maintenance expenditures are derived from NDOT's Highway System Plan (Short Range-Long Range/3 Year-10 Year). Each project in the highway system plan is classified by project type and then, based on historical data, the expenditures are distributed into either the construction or maintenance work category.

Allocation of Responsibility

Since it best matches NDOT practices, the allocation of expenditures for the purpose of calculating responsibility is accomplished using a modified incremental method. The underlying philosophy for this method is that a certain minimum level of expenditure is required to achieve a minimum facility for a minimum design vehicle. This minimum level of expenditure is allocated to all vehicles in the traffic stream. Additional expenditures required to elevate the facility to the level necessary to meet actual design requirements are allocated to those vehicle classes necessitating the increased design. This allocation method is consistent with NDOT design procedures and was recommended by a steering committee representing a variety of transportation interests.

Nevada's first Cost Allocation Study was published in 1984. This study was presented to the 1985 Legislature and called for large increases in user fees on heavy vehicles to achieve equity between heavy and basic vehicles based on their cost responsibility for constructing and maintaining Nevada's highway system.

The Legislature enacted legislation that increased gasoline and diesel fuel taxes, vehicle registration fees for basic and heavy vehicles and increased the mileage fee for interstate motor carrier operators. The package also increased the fee for 48-hour temporary permits, and significantly changed the heavy vehicle registration method from unladen weight to declared gross vehicle weight. These fee increases came with approximately one-half paid by basic vehicles and one-half by heavy vehicles.

The next study was completed in 1986 and was presented to the 1987 Legislature. This study revealed that heavy vehicles were still underpaying their responsibility. Consequently, the Legislature enacted increases in fuel taxes, vehicle registration fees and temporary permits. These increases closed the gap in the inequity of fees paid by the two vehicle classes.

NDOT's 1988 Cost Allocation Study was presented to the 1989 Legislature. This report indicated that equity had been achieved; both basic and heavy vehicles were paying an equitable share of highway user fees.

The 1990 Cost Allocation Study was presented to the 1991 Legislature and confirmed equity. However, because of the restructuring of the motor carrier fee schedule through the 1989 Assembly Bill 943, the report predicted that heavy vehicles would underpay their responsibility for the fiscal years 1992 and 1993 biennium by more than \$11 million.

The Nevada Legislature commissioned Price Waterhouse/The Urban Institute to study the overall tax structure in Nevada. In the chapter on highway taxation, Dr. Robert Ebel reported to the 1989 Legislature that as

a result of Nevada's cost allocation studies, giving recognition to the Legislature for adjusting user fees based on these studies, "...the payments across categories of vehicles by type and weight are proportionate to their estimated cost responsibility. Future fee increases should be apportioned between basic and heavy vehicles consistent with their share of cost responsibility."

At the time of the Price/Waterhouse/Urban Institute study, Nevada had a highway-user tax structure that included a vehicle registration fee, a tax on motor fuel, and a mileage tax on motor carriers over 26,000 pounds. The mileage tax was assessed to interstate carriers (carriers operating only a percentage of their miles in Nevada), while intrastate (carriers operating with full registration in Nevada) were exempt.

Assembly Bill 943 - 1989 Legislature

In 1987 the United States Supreme Court ruled in the Pennsylvania case of The American Trucking Association vs. Scheiner, that flat fees not apportioned are in violation of the Commerce Clause of the Constitution, and therefore unconstitutional.

To satisfy the provisions of the settlement agreement in a similar case in Nevada, Dave R. Grant Hay, Incorporated vs. The Nevada Department of Motor Vehicles and Public Safety, the 1989 Nevada Legislature, through Assembly Bill 943, repealed Nevada's third structure (mileage tax) and all minimum (flat) fees. This bill shifted Nevada's fee schedule to a two-structure tax system consisting of annual vehicle registration fees and a special fuel tax. It's important to note that the U.S. Supreme Court did not find mileage or weight distance taxes unconstitutional when applied to

both interstate and intrastate carriers. Only unapportionable (flat) fees were included in the ruling.

A new tax schedule was developed to recover revenues lost by repealing the mileage tax and minimum fees, except for a \$4 million concession granted by the Governor to help ease the burden on Nevada-based carriers who shouldered the brunt of the tax shift. However, Assembly Bill 943 failed to compensate for all the lost revenue, and the State Highway Fund lost \$19 million over the Fiscal Years 1990-1991 Biennium as a result. The revenue loss hits NDOT's program where it hurts the most; the State highway overlay program. Ironically, this is the area where trucks have the most cost responsibility.

Assembly Bill 943 created an inequitable situation between intra-state and interstate motor carriers. Interstate carriers are allowed to apportion their vehicle registration fees, based on the Nevada percentage of the total miles traveled annually. In 1991 there were 265,000 Inter-state vehicles registered in Nevada at the legal maximum of 80,000 pounds. The average apportioned registration fee for these vehicles was \$26.40. Nevada-based carriers must pay the full \$1,360 registration fee regardless of miles traveled. Therefore, Nevada-based Intrastate carriers pay a considerably higher cost for the privilege of operating on Nevada's highways than paid by motor carriers based in other states. Following is

a comparison of highway user fees paid by these vehicles:

	<u>Intrastate*</u>			<u>Interstate**</u>
<u>Vehicle Type</u>	<u>(Cents/Mile</u>		<u>Year</u>	<u>(Cents/Mile)</u>
80,000 pound Diesel-Powered 5-Axle Tractor Semi-Trailer	7.3	(Before A.B. 943)	1989	8.4
	14.3	(After A.B. 943)	1990	5.6
	15.4	(After S.B. 441)	1993	6.5

* Assume 13,000 miles (intrastate average) traveled per year on Nevada's high ways.

** Assume 80,000 total miles traveled per year - 13,000 miles (16.3% apportionment factor) on Nevada highways.

Senate Bill 441 - 1991 Legislature

In 1991 the Nevada State Legislature passed Senate Bill 441. This bill increased motor fuel taxes, vehicle registration and driver's license fees and generates about \$60 million per year. According to the 1992 Cost Allocation Study, heavy vehicles are responsible for 40.0% or \$24 million of this increase, but in fact contribute only about \$7 million. The combined effects of A.B. 943 and S.B. 441 result in heavy vehicles under-paying their equitable cost responsibility by about \$30 million per year.

**APPENDIX D: "Executive Summary" Cost Allocation
Study 1992.**

EXECUTIVE SUMMARY

The purpose of this 1992 Cost Allocation Study is to ascertain whether highway users are contributing to the State Highway Fund in proportion to their share of the responsibility for constructing, maintaining, and administering Nevada's state highway program. Only state funds are included in our analysis, and a distinction is made only between basic vehicles (those weighing 10,000 pounds or less) and heavy vehicles (those weighing more than 10,000 pounds) when comparing contributions and responsibility.

In this 1992 Cost Allocation Study we find that there is a gross inequity between basic- and heavy-vehicle contributions and responsibility. Heavy vehicles will underpay their fair share of highway costs by \$61 million during fiscal years 1992 and 1993. Furthermore, without legislative adjustments, we project that during the 1994-95 biennium heavy vehicles will underpay their share of highway costs by \$78 million. The contributions and responsibility determined for basic and heavy vehicles during the 1992-93 biennium are shown in the table below.

Fiscal Years 1992-93

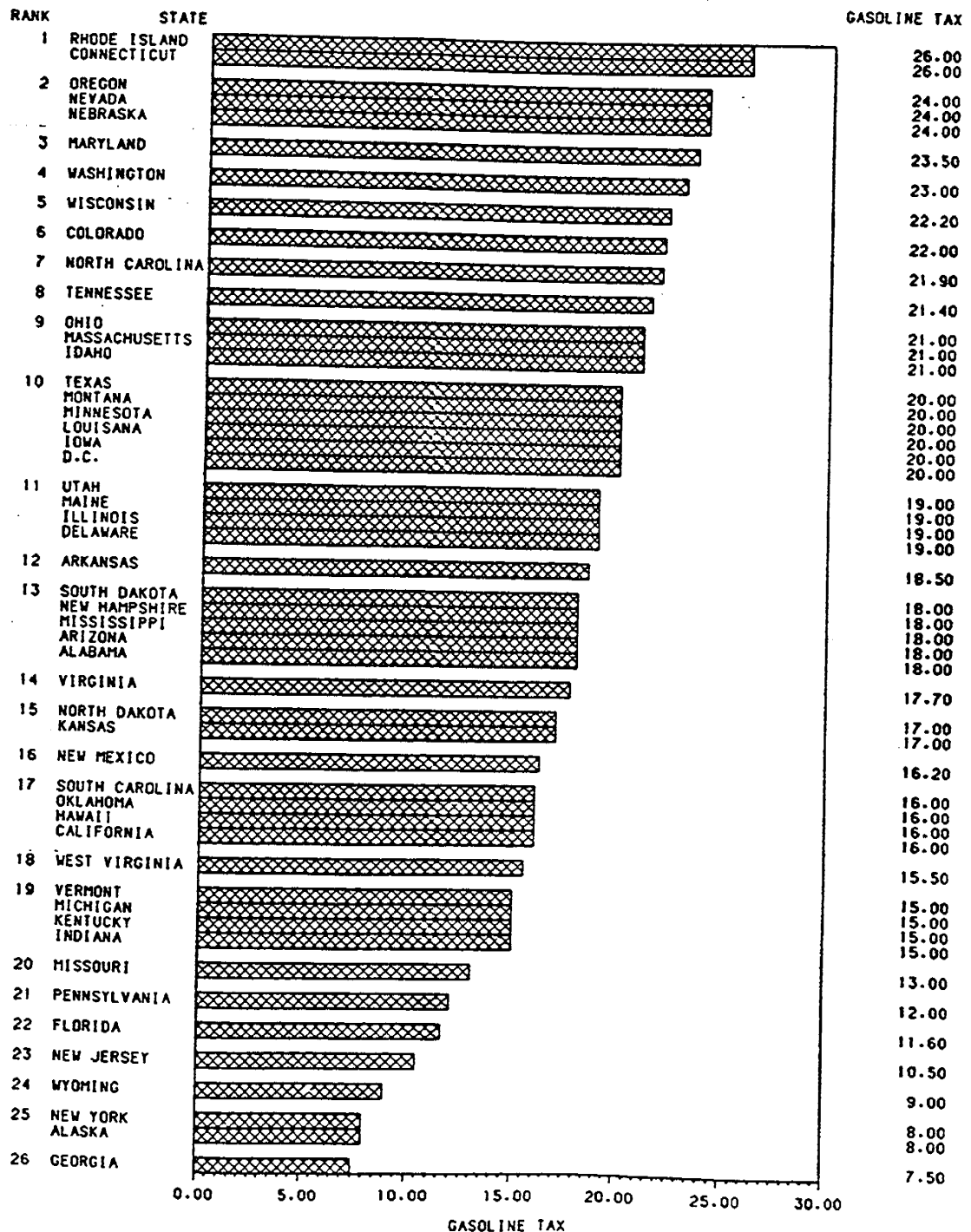
VEHICLE CLASS	CONTRIBUTION		RESPONSIBILITY		OVER PAYMENT	UNDER PAYMENT
BASIC VEHICLE	\$282,905,409	68.6%	\$246,635,637	59.8%	\$0	
HEAVY VEHICLE	\$129,193,447	31.4%	\$165,463,219	40.2%		60,602,477

Since NDOT's first biennial highway cost allocation study was conducted in 1984, Nevada's Legislature has strived to obtain equity between basic and heavy vehicles when revising highway user fees. Because of changes made by the 1985 and 1987 Legislatures, equity was achieved and verified in the 1988 Cost Allocation Study. Unfortunately, legislative changes made in 1989 (Assembly Bill 943) and 1991 (Senate Bill 441) have produced the gross inequity that is manifested in this study. Principally, 1989 Assembly Bill 943 reduced heavy-vehicle contributions to the highway fund, while 1991 Senate Bill 441 substantially increased basic-vehicle contributions.

APPENDIX E: N D O T Revenue Submittals

E 1. Gasoline Tax Collected

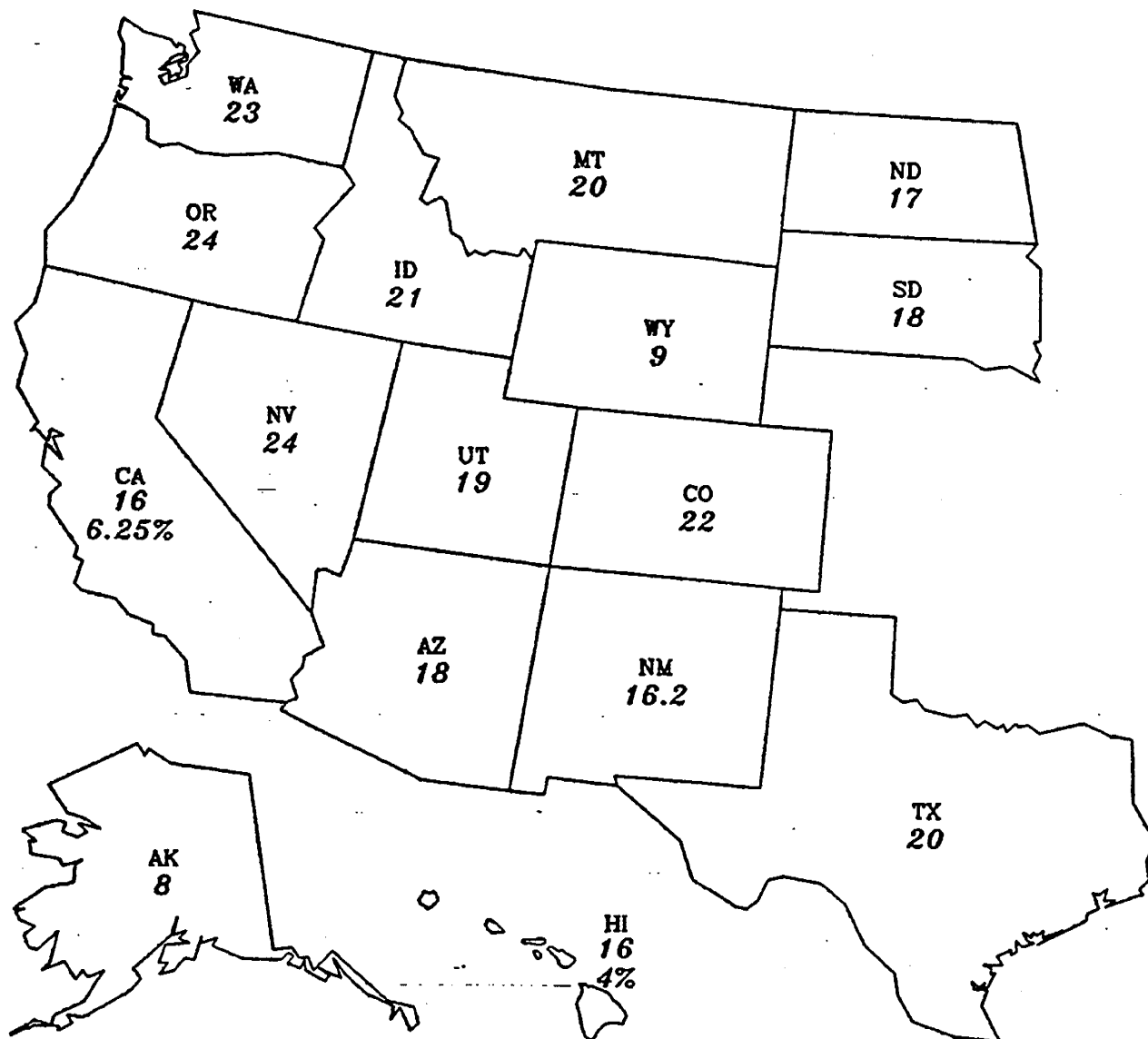
STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
GASOLINE TAX PER GALLON



SOURCE: HIGHWAY USERS FEDERATION, JAN. 11, 1993

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
GASOLINE TAX COLLECTED

TAX PER GALLON / ADDED TAX (%)

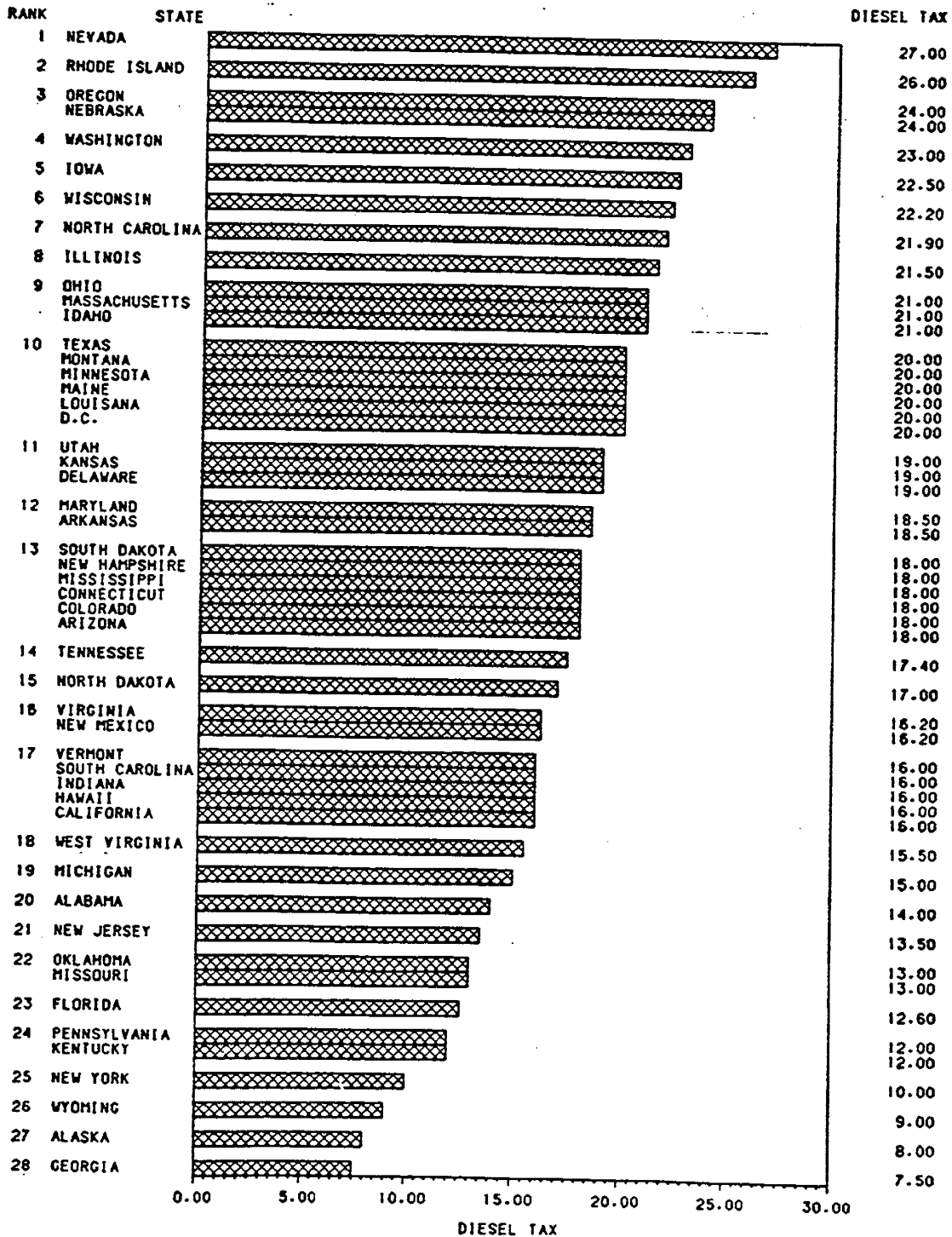


WASHTO MEMBER STATES

SOURCE: HIGHWAY USERS FEDERATION, JAN. 11, 1993

E 2. Diesel Tax Collected

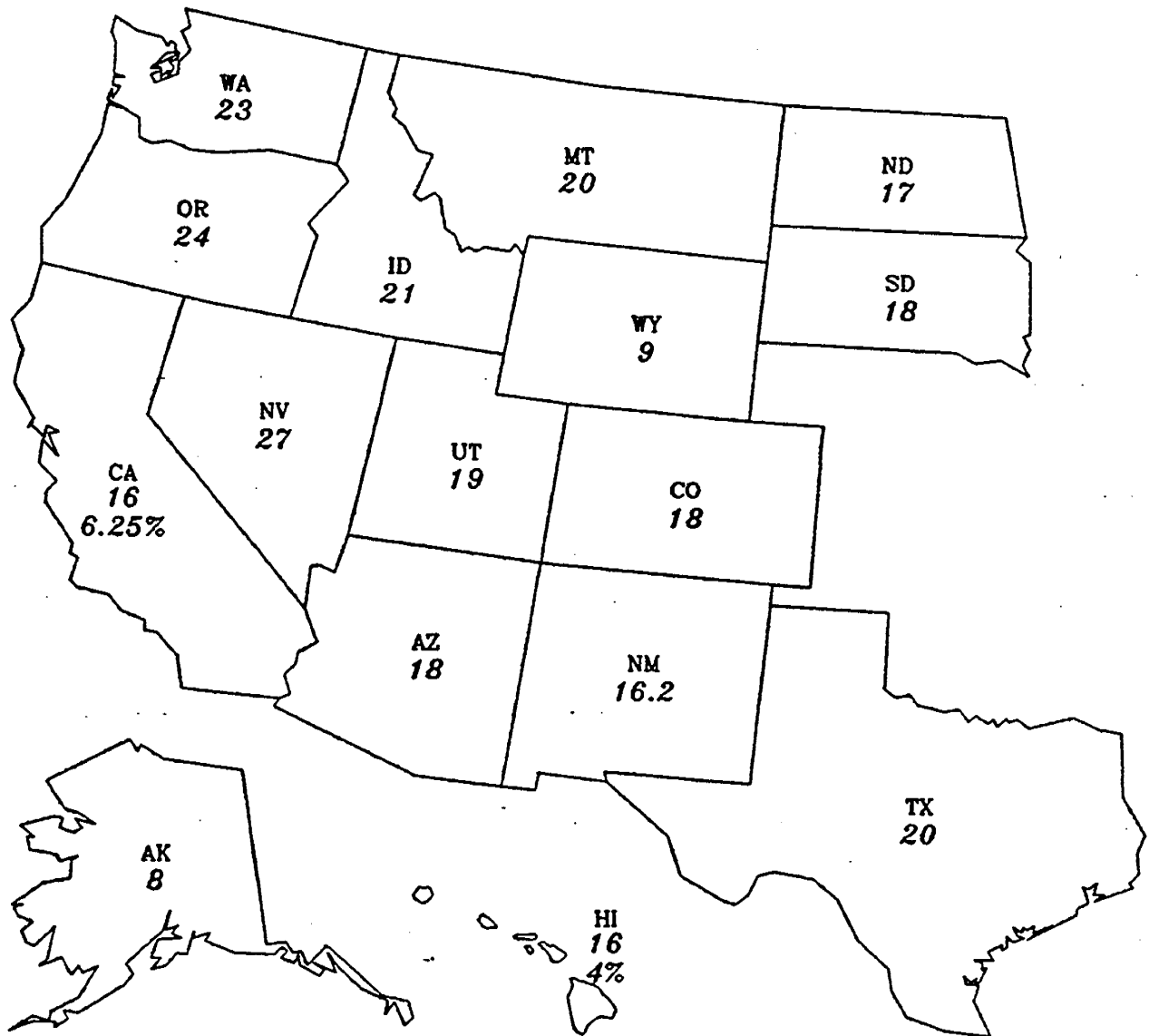
STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
DIESEL TAX PER GALLON



SOURCE: HIGHWAY USERS FEDERATION, JAN. 11, 1993

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
DIESEL TAX COLLECTED

TAX PER GALLON / ADDED TAX (%)

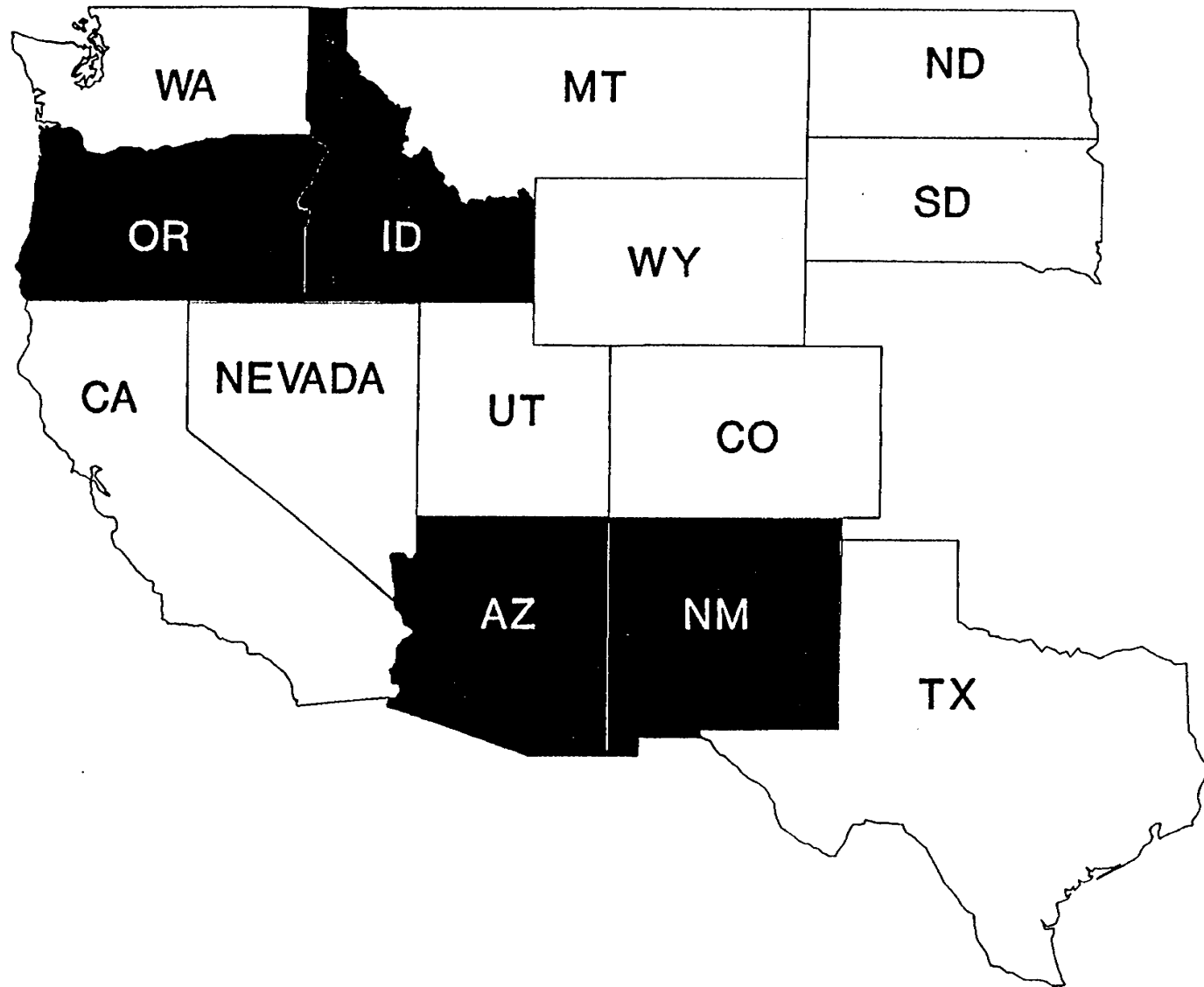


WASHTO MEMBER STATES

SOURCE: HIGHWAY USERS FEDERATION, JAN. 11, 1993

E 3. Western States with a Mileage Tax

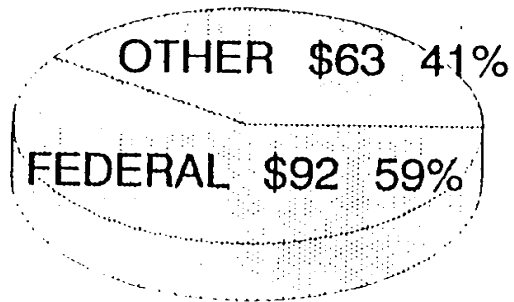
Western States With A Mileage Tax



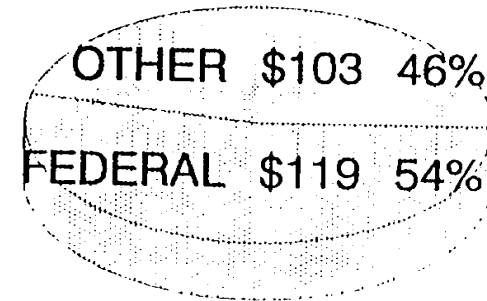
E 4. Federal Revenue as Percent of Total Revenue

FEDERAL REVENUE AS A PERCENT OF TOTAL REVENUE

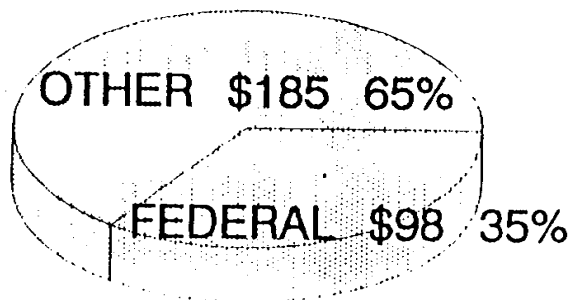
(AMOUNTS SHOWN IN MILLIONS)



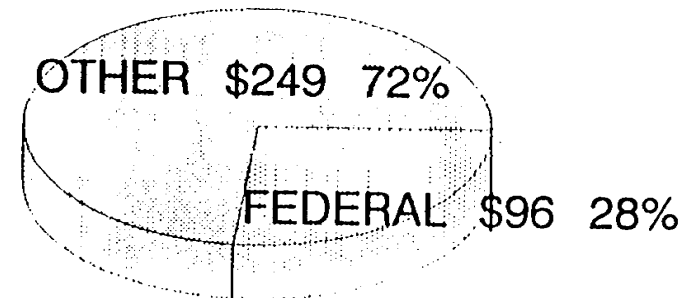
1980



1985



1990



1993

E 5. Motor Carrier Fee Structure

Motor Carrier Fee Structure

<u>As of January 1, 1989</u>	<u>INTRAsate</u>	<u>INTERstate</u>
Registration Fee:	\$6/1,000 lbs.	\$6/1,000 lbs.
Special-Fuel Tax:	20¢/Gal.	20¢/Gal.
Motor Carrier Mileage Fee:	N/A	4.25¢/Mile
Motor Carrier Admin. Fee:	N/A	\$8/Year
Trailer Reg. Fee:	\$12	\$12

As of January 1, 1990

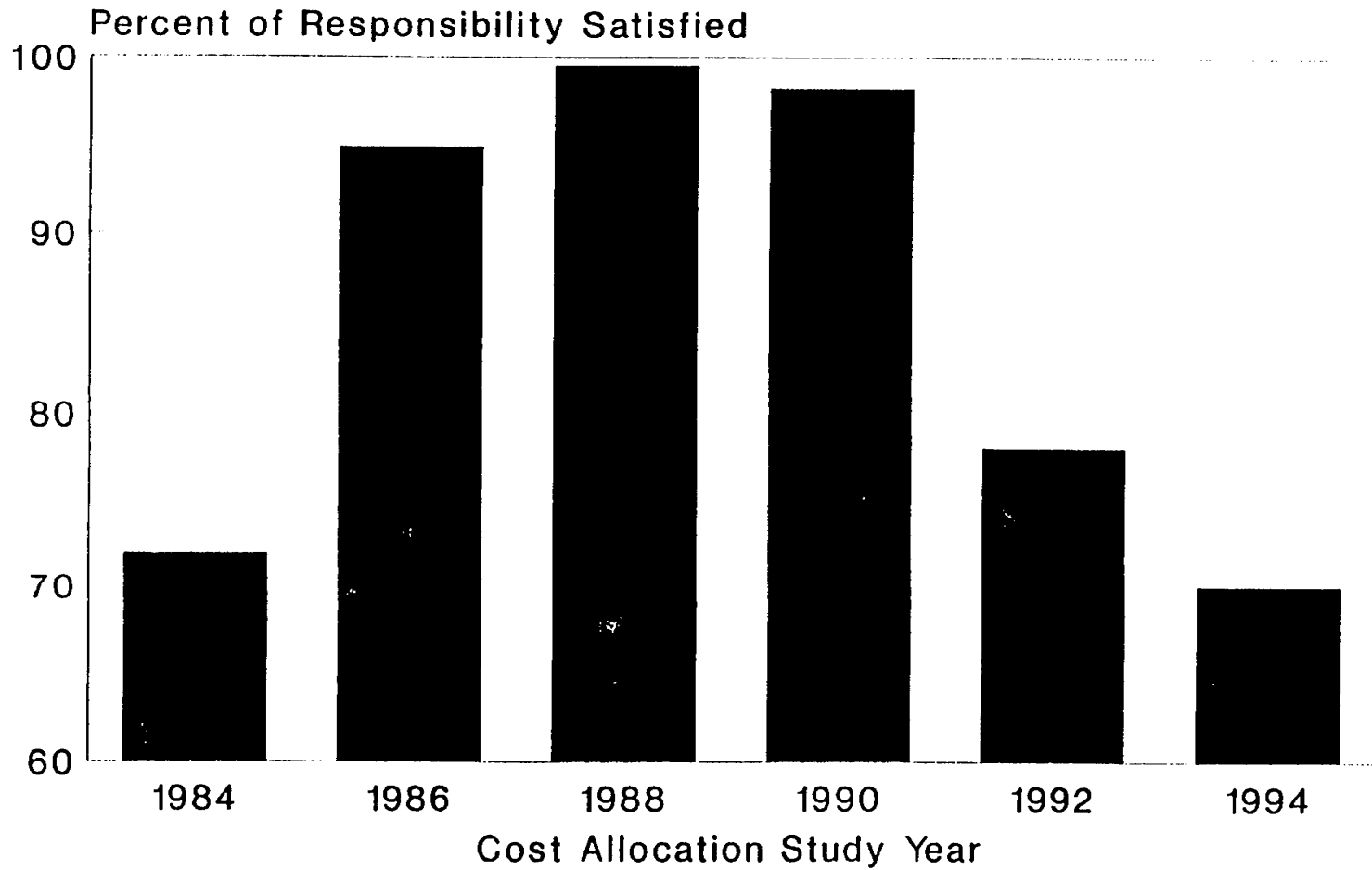
Registration Fee-		
10,001 to 26,000 lb.:	\$12/1,000 lbs.	\$12/1,000 lbs.
26,001 to 80,000 lb.:	\$17/1,000 lbs.	\$17/1,000 lbs.
Special-Fuel Tax:	22¢/Gal.	22¢/Gal.
Trailer Reg. Fee:	\$12	\$12

As of October 1, 1992

Registration Fee-		
10,001 to 26,000 lb.:	\$12/1,000 lbs.	\$12/1,000 lbs.
26,001 to 80,000 lb.:	\$17/1,000 lbs.	\$17/1,000 lbs.
Special-Fuel Tax:	27¢/Gal.	27¢/Gal.
Trailer Reg. Fee:	\$24	\$24

**E 6. State Highway Fund, Heavy Vehicle Contributions vs.
Responsibility**

State Highway Fund Heavy-Vehicle Contributions vs. Responsibility











**E 7. Highway User Fee Comparison of Selected Heavy Vehicles,
Intrastate vs. Interstate**

HIGHWAY USER FEE COMPARISON OF SELECTED HEAVY VEHICLES

Intrastate Versus Interstate

(Fees Based on Rates In Effect Jan. 1, 1989; Jan. 1, 1990; and October 1, 1992)

VEHICLE TYPE		INTRAstate*	Year	INTERstate**
		(Cents/Mile)		(Cents/Mile)
	24,000—lb.	3.6	1989	7.0
	Diesel—Powered	5.0	1990	3.1
	Van Truck	5.6	1993	3.7
	31,000—lb.	4.8	1989	7.9
	Diesel—Powered	7.8	1990	4.4
	47—seat Bus	8.6	1993	5.2
	40,000—lb.			
	Diesel—Powered	5.2	1989	7.9
	3—axle	8.9	1990	4.5
	Tractor—Semitrailer	9.9	1993	5.4
	50,000—lb.			
	Diesel—Powered	5.6	1989	8.0
	3—axle	10.2	1990	4.7
	Dump Truck	11.0	1993	5.6
	60,000—lb.			
	Diesel—Powered	6.2	1989	8.2
	4—axle	11.6	1990	5.0
	Tractor—Semitrailer	12.6	1993	5.9
	80,000—lb.			
	Diesel—Powered			
	5—axle	7.1	1989	8.4
	Tractor—Semitrailer & Full Trailer	14.3	1990	5.5
		15.5	1993	6.4
	80,000—lb.			
	Diesel—Powered	7.2	1989	8.4
	5—axle	14.3	1990	5.6
	Tractor—Semitrailer	15.4	1993	6.5
	80,000—lb.			
	Diesel—Powered	7.2	1989	8.4
	5—axle	14.3	1990	5.6
	Truck & Full Trailer	15.4	1993	6.5

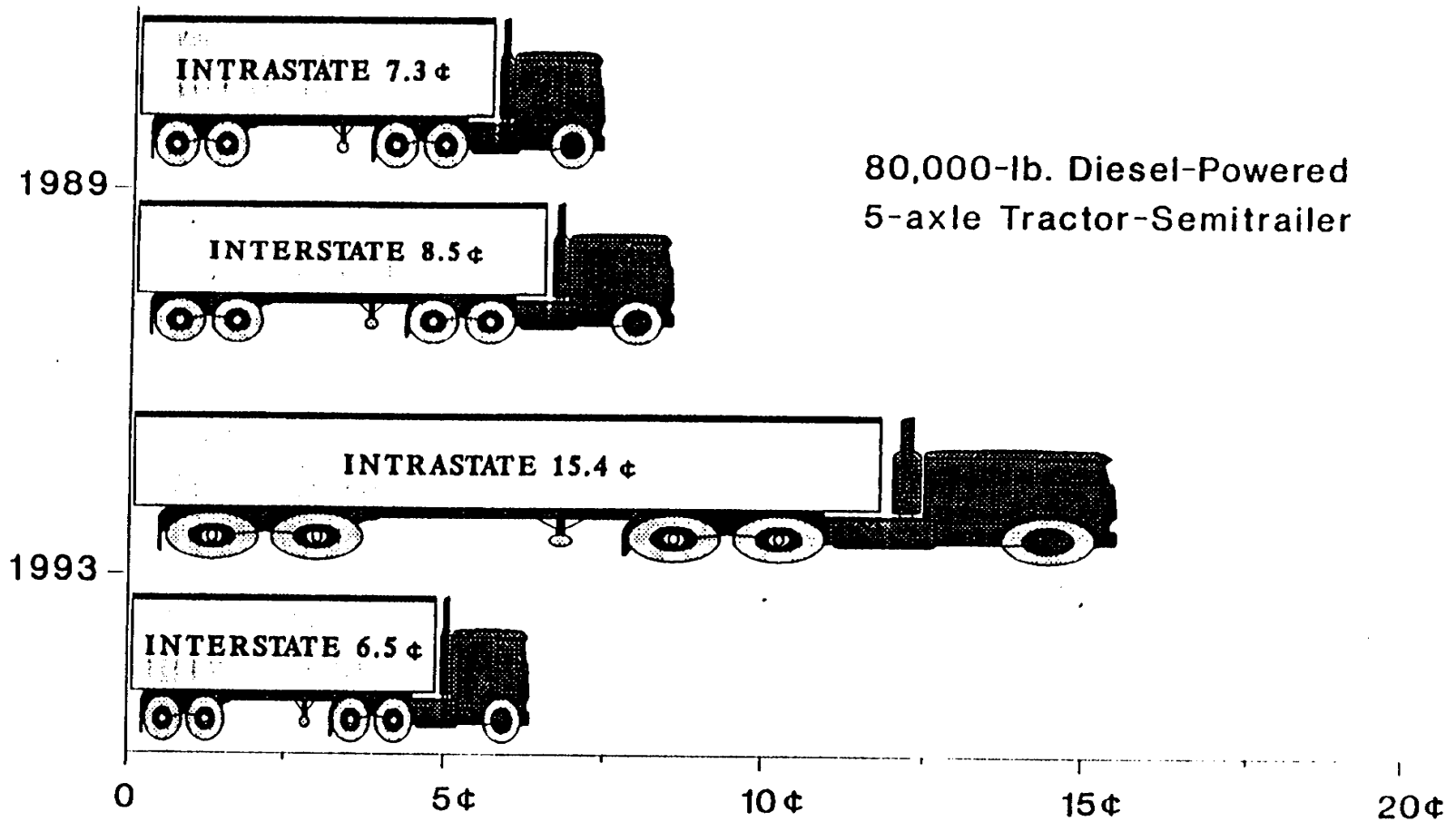
* Assume 13,000 miles (intrastate average) traveled per year on Nevada's highways.

** Assume 80,000 total miles traveled per year — 13,000 miles (16.3% prorate factor) on Nevada's highways. Interstate carriers may prorate registration fees based on the percentage of miles driven in Nevada.

E 8. Intrastate vs. Interstate User Fee Cost per Mile

INTRASTATE V. INTERSTATE

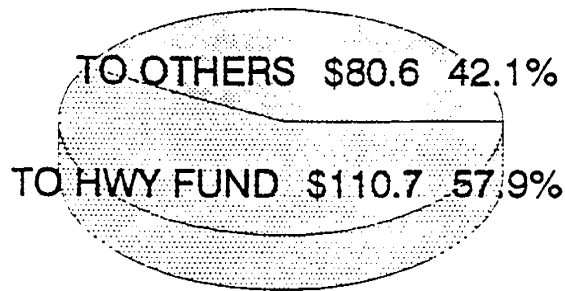
USER FEE COST PER MILE



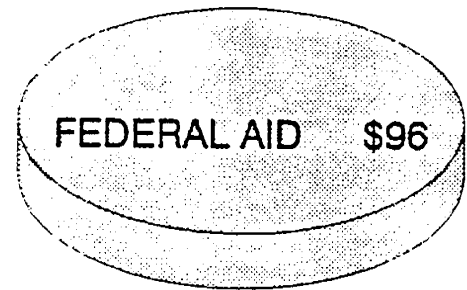
E 9. FY 92-93 Highway Fund Revenues

FY 92-93 HIGHWAY FUND REVENUES

(AMOUNTS SHOWN IN MILLIONS)

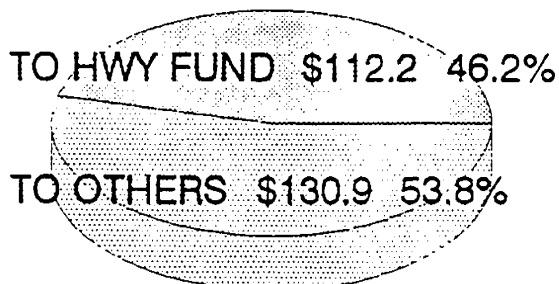
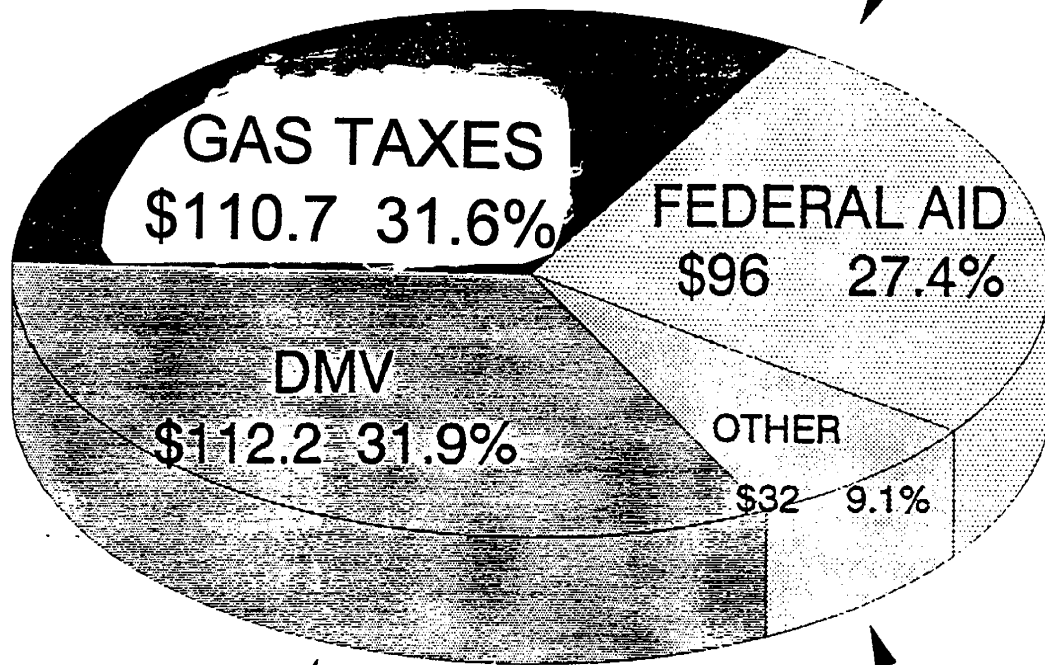


GAS TAXES

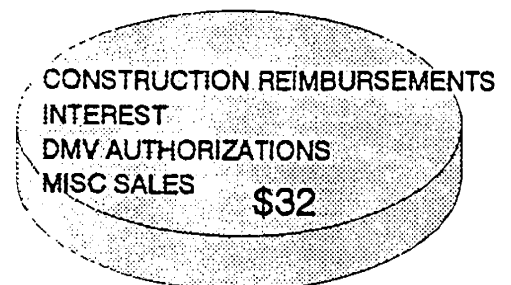


FEDERAL AID

TOTAL \$350.9



DMV



OTHER

E 10. 1993 User-Fee Structure

1993 USER-FEE STRUCTURE

FUEL TAX TO STATE HIGHWAY FUND

Gasoline	\$ 0.1765/gal
Special Fuel	
Diesel	0.270 /gal
LPG & CNG	0.23 /gal

TITLE FEE 20.00

DRIVER'S LICENSE FEE 20.00

REGISTRATION FEES

Basic Fee	33.00
Fees assessed By Weight	
0 - 5,999 (lbs DGW)	33.00
6,000 - 8,499	38.00
8,500 - 10,000	48.00
10,001 - 26,000	12.00/1,000 lbs
26,001 - 80,000	17.00/1,000 lbs
	(1,360.00 max.)

TRAILERS

Travel	27.00
Unladen Weight	
1,000 lbs or less	12.00
Over 1,000 lbs	24.00

PERSONALIZED PLATES

New	35.00
Renewal	20.00

PRIVELEGE TAX COLLECTION COMMISSION

Collected By DMV	6.00%
Collected By County	1.00%

MOTOR CARRIER FEES

Temporary Permit fees	
Over 26,000 lbs DGW	5.00+15¢/mile
Commercial Driver's License	
Knowledge Test Only	55.00
W/ Driving Test	85.00
Over-Dimensional Permit Fees	
Over 80,000 lbs DGW	60.00/1,000 lbs
	(2,940.00 max.)

**E 11. Potential Highway Fund Revenue from Various Sources,
Projections for Fiscal Year 1994.**

Potential Highway Fund Revenue from Various Sources

Projections for Fiscal Year 1994

Revenue Source	FY94 Potential Revenue
Motor Fuel Tax	
Gasoline Tax	\$6.9 million for each 1¢-per-gallon increase.
Special Fuel	\$1.5 million for each 1¢-per-gallon increase.
Highway User Fees	
Registration:	
Vehicles < 10,000 lbs.	\$1.1 million for each \$1-per-vehicle increase.
Vehicles 10,000-26,000 lbs.	\$0.19 million for each \$1-per-1,000-lb. increase.
Vehicles >26,000 lbs.	\$0.81 million for each \$1-per-1,000-lb. increase.
Mileage Tax:	
Vehicles 26,000-50,000 lbs.	\$0.89 million for each 1¢-per-mile tax.
Vehicles >50,000 lbs.	\$5.6 million for each 1¢-per-mile tax.
Vehicles >26,000 lbs.	\$6.5 million for each 1¢-per-mile tax.
Driver's License	\$0.36 million for each \$1-per-vehicle increase.
Privilege Tax	\$20 million for each 1¢ per \$1 valuation.
State Sales Tax	
General Sales Tax	\$ 150 million for each 1% of all taxable sales.
Vehicle Sales Tax	\$15 million for each 1% of taxable vehicle sales.

E 12. History of Motor Fuel Tax Rates

History of Motor Fuel Tax Rates

County Option Tax NRS 373.030 (Enacted 1965)

Carson City	2¢ (05/01/77)	4¢ (07/01/81)				
Churchill	2¢ (08/01/73)	4¢ (02/01/89)				
Clark	2¢ (09/01/69)	4¢ (04/01/83)	5¢ (01/01/92)	7¢ (01/01/93)	8¢ (01/01/94)	9¢ (01/01/95)
Douglas	2¢ (06/01/70)	4¢ (08/01/86)	5¢ (07/01/93)	6¢ (01/01/94)	7¢ (07/01/94)	8¢ (01/01/95) 9¢ (07/01/95)
Elko	2¢ (09/01/84)	4¢ (10/01/88)				
Esmeralda	4¢ (09/01/87)	()				
Eureka	4¢ (08/01/88)	()				
Humboldt	2¢ (09/01/75)	4¢ (01/01/85)	6¢ (04/01/94)	7¢ (04/01/95)	8¢ (04/01/96)	
Lander	2¢ (01/01/80)	4¢ (07/01/87)				
Lincoln	4¢ (09/01/87)	()				
Lyon	2¢ (08/01/86)	4¢ (09/01/87)				
Mineral	2¢ (08/01/84)	4¢ (07/01/89)	6¢ (04/01/92)	8¢ (04/01/93)	9¢ (04/01/94)	
Nye	2¢ (10/01/69)	4¢ (12/01/81)				
Pershing	1¢ (07/01/76)	4¢ (10/01/85)				
Storey	4¢ (12/01/87)	()				
Washoe	2¢ (05/01/70)	4¢ (01/01/82)	9¢ (04/01/94)			
White Pine	2¢ (07/01/82)	4¢ (06/01/85)	9¢ (12/01/91)	4¢ (12/01/94)		

County 1¢ NRS 365.192 (Enacted 1983)

Carson City	1¢ (01/01/87)	
Churchill	1¢ (01/01/87)	
Clark	.91¢ (01/01/85)	1¢ (07/01/85)
Douglas	1¢ (01/01/87)	
Elko	1¢ (10/01/91)	
Esmeralda	1¢ (01/01/87)	
Eureka	1¢ (10/01/91)	
Humboldt	1¢ (07/01/90)	
Lander	1¢ (10/01/91)	
Lincoln	1¢ (10/01/91)	
Lyon	1¢ (10/01/91)	
Mineral	1¢ (10/01/91)	
Nye	1¢ (10/01/91)	
Pershing	1¢ (01/01/87)	
Storey	1¢ (01/01/87)	
Washoe	1¢ (01/01/87)	
White Pine	1¢ (01/01/87)	

State Gasoline Tax

6.0¢ (1980)	10.5¢ (07/01/81)	12.0¢ (07/01/82)	13.0¢ (07/01/85)	16.0¢ (07/01/87)
18.0¢ (07/01/88)	20.5¢ (10/01/91)	23.0¢ (10/01/92)	()	()

Jet Fuel Tax

State Tax	1¢ (07/01/83)
Clark Co.	2¢ (07/01/91)

Gasohol taxed at 1¢ less than gasoline effective (07/01/81) thru (07/01/87).

Diesel Fuel 22.0¢ (01/01/90) 24.5¢ (10/01/91) 27.0¢ (10/01/92)

Petroleum Products Discharge Cleanup Fee \$.006 effective (10/01/89)

E 13. Comparative Statement of Revenues & Receipts.

DEPARTMENT OF TRANSPORTATION
COMPARATIVE STATEMENT OF REVENUES AND RECEIPTS
FISCAL YEARS 1989 - 1995

29-Mar-94

11:31 AM

	ACTUAL FISCAL YEAR 1989	ACTUAL FISCAL YEAR 1990	ACTUAL FISCAL YEAR 1991	ACTUAL FISCAL YEAR 1992	ACTUAL FISCAL YEAR 1993	ESTIMATED FISCAL YEAR 1994	ESTIMATED FISCAL YEAR 1995	ESTIMATED FISCAL YEAR 1996	ESTIMATED FISCAL YEAR 1997	ESTIMATED FISCAL YEAR 1998
STATE USER REVENUE										
GASOLINE TAXES	\$74,286,506	\$77,139,599	\$80,796,352	\$92,734,956	\$110,690,615	\$121,277,372	\$126,128,467	\$131,173,606	\$136,420,550	\$141,877,372
MOTOR VEHICLE FEES & TAXES										
REGISTRATION FEES	\$25,930,376	\$26,870,432	\$27,528,022	\$35,438,126	\$43,683,326	\$46,032,722	\$47,413,704	\$49,168,011	\$50,643,051	\$52,010,413
PRIVILEGE TAXES	2,915,983	3,412,208	3,650,875	4,613,768	5,600,669	5,143,490	5,297,794	\$5,493,812	\$5,658,627	\$5,811,410
MOTOR CARRIER FEES	29,457,843	29,447,976	17,155,067	16,998,770	17,943,903	17,943,799	18,482,113	\$19,165,951	\$19,740,930	\$20,273,935
PSC REGULATORY FEES	1,912,676	225,041	6,019	3,812	419	0	0	\$0	\$0	\$0
DRIVER'S LICENSE FEES	2,835,592	4,065,935	4,458,903	5,632,091	6,559,683	6,852,582	7,306,291	\$7,576,624	\$7,803,922	\$8,014,628
SPECIAL FUEL TAXES	25,191,930	27,300,867	29,502,032	33,076,266	35,653,673	40,472,226	41,686,393	\$42,936,985	\$44,225,094	\$45,551,847
PENALTIES AND INTEREST	2,258,427	696,832	623,901	3,048,392	3,036,651	3,544,477	3,666,434	\$3,802,092	\$3,916,155	\$4,021,891
TOTAL MOTOR VEH. FEES & TAXES	\$90,502,827	\$92,019,291	\$82,924,819	\$98,811,225	\$112,478,324	\$119,989,296	\$123,852,729	\$128,143,475	\$131,987,779	\$135,684,124
TOTAL STATE USER REVENUE	\$164,789,333	\$169,158,890	\$163,721,171	\$191,546,181	\$223,168,939	\$241,266,668	\$249,981,196	\$259,317,081	\$268,408,329	\$277,561,496

	ACTUAL FISCAL YEAR 1989	ACTUAL FISCAL YEAR 1990	ACTUAL FISCAL YEAR 1991	ACTUAL FISCAL YEAR 1992	ACTUAL FISCAL YEAR 1993	ESTIMATED FISCAL YEAR 1994	ESTIMATED FISCAL YEAR 1995	ESTIMATED FISCAL YEAR 1996	ESTIMATED FISCAL YEAR 1997	ESTIMATED FISCAL YEAR 1998
FEDERAL AID REIMBURSEMENT										
INTERSTATE SYSTEM	\$15,208,820	\$41,437,874	\$41,064,128	\$41,967,100	\$11,147,020	\$0	\$0			
PRIMARY SYSTEM	25,545,333	21,408,653	22,189,905	915,496	5,024,551	0	0			
SECONDARY SYSTEM	3,706,605	4,429,924	2,225,778	12,508,139	7,396,693	0	0			
URBAN SYSTEM	2,733,848	3,170,311	6,707,146	2,488,117	853,833	5,000,000	0			
SPECIAL PROJECTS	19,896,399	19,229,485	25,218,493	21,593,627	3,781,448	0	0			
PLANNING	1,330,188	1,192,955	1,198,916	389,206	200,614	0	0			
OTHER	1,068,989	472,347	330,763	990,764	903,724	0	0			
ISTEA INTERSTATE				110,702	10,247,504	24,000,000	24,000,000	\$25,200,000	\$26,460,000	\$27,783,000
ISTEA SURFACE TRANSPORTATION PROG.				271,370	16,866,478	20,000,000	20,000,000	\$21,000,000	\$22,050,000	\$23,152,500
ISTEA NATIONAL HIGHWAY				848,077	20,571,437	25,000,000	25,000,000	\$26,250,000	\$27,562,500	\$28,940,625
ISTEA SPECIAL PROJECTS				1,093,616	13,714,542	25,000,000	35,000,000	\$36,750,000	\$38,587,500	\$40,516,875
ISTEA OTHER				131,992	2,602,789	10,000,000	10,000,000	\$10,500,000	\$11,025,000	\$11,576,250
TOTAL FEDERAL AID REIMBURSEMENT	\$69,490,182	\$91,341,549	\$98,935,129	\$83,308,206	\$93,310,633	\$109,000,000	\$114,000,000	\$119,700,000	\$125,685,000	\$131,969,250

	ACTUAL FISCAL YEAR 1989	ACTUAL FISCAL YEAR 1990	ACTUAL FISCAL YEAR 1991	ACTUAL FISCAL YEAR 1992	ACTUAL FISCAL YEAR 1993	ESTIMATED FISCAL YEAR 1994	ESTIMATED FISCAL YEAR 1995	ESTIMATED FISCAL YEAR 1996	ESTIMATED FISCAL YEAR 1997	ESTIMATED FISCAL YEAR 1998
MISCELLANEOUS REVENUE AND RECEIPTS										
DMV AUTHORIZED OPER. REV.	\$4,518,900	\$5,013,823	\$5,005,812	\$6,239,906	\$6,719,516	\$9,669,355	\$8,706,986	\$9,029,144	\$9,300,019	\$9,551,119
DMV GENERAL FUND APPROP.	48,205	67,580	81,330	294,013	578,844	323,166	282,250	\$290,718	\$290,718	\$299,439
ADVANCE RIGHT-OF-WAY RECEIPTS	8,301,181	6,091,455	4,681,408	7,463,553	3,193,315	8,000,000	8,000,000	\$8,400,000	\$8,820,000	\$9,261,000
COOPERATIVE CONSTRUCTION REIMB.	1,572,842	3,685,468	3,694,647	6,203,133	15,382,117	7,000,000	7,000,000	\$7,350,000	\$7,717,500	\$8,103,375
BOND PROCEEDS	0	0	30,011,280	33,601,949	0	100,000,000	0	0	\$149,500,000	\$0
INTEREST	6,759,869	4,075,099	3,265,966	4,715,945	5,085,583	5,000,000	5,000,000	\$5,250,000	\$5,512,500	\$5,788,125
MISC. SALES AND REIMBURSEMENTS	4,298,688	3,027,862	3,147,464	5,734,720	3,607,001	6,000,000	6,000,000	\$6,300,000	\$6,615,000	\$6,945,750
OIL OVERCHARGE SETTLEMENT	507,540	0	0	0	0	0	0	\$0	\$0	\$0
TOTAL MISC. REVENUE & RECEIPTS	\$26,007,225	\$21,961,287	\$49,887,907	\$64,253,219	\$34,566,376	\$135,992,521	\$34,989,236	\$36,619,862	\$187,755,737	\$39,948,808
TOTAL REVENUE AND RECEIPTS	\$260,286,740	\$282,461,726	\$312,544,207	\$339,107,606	\$351,045,948	\$486,259,189	\$398,970,432	\$415,636,943	\$581,849,066	\$449,479,554

**DEPARTMENT OF TRANSPORTATION
COMPARATIVE STATEMENT OF HIGHWAY FUND EXPENDITURES/DISBURSEMENTS
FISCAL YEARS 1988 - 1995**

	ACTUAL FISCAL YEAR 1989	ACTUAL FISCAL YEAR 1990	ACTUAL FISCAL YEAR 1991	ACTUAL FISCAL YEAR 1992	ACTUAL FISCAL YEAR 1993	W.P. FISCAL YEAR 1994	W.P. FISCAL YEAR 1995	ESTIMATED FISCAL YEAR 1996	ESTIMATED FISCAL YEAR 1997	ESTIMATED FISCAL YEAR 1998
DEPARTMENT OF TRANSPORTATION										
OPERATIONS:										
SALARIES	\$48,182,008	\$51,546,578	\$55,306,315	\$59,961,182	\$63,182,684	\$65,849,559	\$66,967,627	\$70,316,008	\$73,831,809	\$77,523,399
TRAVEL	1,101,226	1,311,891	1,305,837	1,551,398	1,360,457	1,605,600	1,605,600	\$1,685,880	\$1,770,174	\$1,858,683
OPERATING	23,022,965	22,030,217	24,334,109	22,645,218	23,940,644	26,530,800	26,751,225	\$28,088,786	\$29,493,226	\$30,967,887
EQUIPMENT	7,764,672	7,328,008	6,481,414	6,409,461	4,755,635	4,998,400	6,093,650	\$6,398,333	\$6,718,249	\$7,054,162
CAPITAL IMPROVEMENTS	146,518,617	180,415,928	121,588,962	158,859,460	166,413,777	336,022,738	215,697,138	\$242,764,865	\$379,758,021	\$216,196,662
TOTAL OPERATIONS	\$226,589,488	\$262,632,622	\$209,016,637	\$249,426,719	\$259,653,197	\$435,007,097	\$317,115,240	\$349,253,872	\$491,571,478	\$333,600,792
OTHER:										
COST OF FUEL SOLD TO OTHER AGENCIES	\$629,213	\$735,275	\$906,709	\$931,081	\$1,013,180	\$950,001	\$950,001	\$1,063,839	\$1,117,031	\$1,172,882
TOTAL DOT EXPENDITURES	\$227,218,701	\$263,367,897	\$209,923,346	\$250,357,800	\$260,666,377	\$435,957,098	\$318,065,241	\$350,317,711	\$492,688,509	\$334,773,675

	ACTUAL FISCAL YEAR 1989	ACTUAL FISCAL YEAR 1990	ACTUAL FISCAL YEAR 1991	ACTUAL FISCAL YEAR 1992	ACTUAL FISCAL YEAR 1993	W.P. FISCAL YEAR 1994	W.P. FISCAL YEAR 1995	ESTIMATED FISCAL YEAR 1996	ESTIMATED FISCAL YEAR 1997	ESTIMATED FISCAL YEAR 1998
APPROPRIATIONS TO OTHER DEPARTMENTS										
DEPT. OF MOTOR VEHICLES AND PUBLIC SAFETY	\$27,634,313	\$33,655,850	\$37,174,412	\$41,455,722	\$44,593,643	\$47,655,161	\$47,919,431	\$52,006,544	\$52,928,309	\$53,821,207
ATTORNEY GENERAL	404,702	484,205	497,891	571,254	587,196	0	0	\$616,556	\$647,384	\$679,753
BUDGET DIVISION	36,044	41,624	42,803	45,417	46,640	74,097	79,161	\$48,972	\$51,421	\$53,992
LEGISLATIVE BRANCH						15,000		\$0	\$0	\$0
PUBLIC SERVICE COMMISSION	1,757,112	2,072,058	2,096,059	2,259,619	2,286,466	2,325,837	2,296,276	\$2,400,789	\$2,520,829	\$2,646,870
DEPARTMENT OF TAXATION	382,883	419,624	410,015	467,476	445,607	788,438	795,557	\$467,887	\$491,282	\$515,846
PUBLIC WORKS	1,556,200	106,087	0	900,000	2,000,000	3,897,809	0	\$2,100,000	\$2,205,000	\$2,315,250
BOARD OF EXAMINERS	113,794	0	0	0	0	314,525	455,126	\$0	\$0	\$0
BUILDINGS & GROUNDS	315,137	0	0	0	0	0	0	\$0	\$0	\$0
TOTAL OTHER APPROPRIATIONS	\$32,200,185	\$36,779,448	\$40,221,180	\$45,699,488	\$49,959,552	\$55,070,867	\$51,545,551	\$57,640,748	\$58,844,224	\$60,032,917
OTHER DISBURSEMENTS										
ADVANCE R/W PAYBACKS	\$0	\$0	\$11,210,144	\$0	\$4,725,270	0	\$0	\$4,961,534	\$5,209,610	\$5,470,091
BOND INTEREST & REDEMPTION FUND	19,131,528	18,347,270	17,381,903	17,437,074	19,219,680	15,046,560	34,718,985	\$33,247,512	\$25,756,599	\$50,368,246
TRANSFER TO ATTORNEY GENERAL	0	0	0	18,103	0	0	0	\$0		
TOTAL OTHER DISBURSEMENTS	\$19,131,528	\$18,347,270	\$28,592,047	\$17,455,177	\$23,944,950	\$15,046,560	\$34,718,985	\$38,209,046	\$30,966,209	\$55,838,337
TOTAL EXPENDITURES & DISBURSEMENTS	\$278,550,414	\$318,494,615	\$278,736,573	\$313,512,465	\$334,570,879	\$506,074,525	\$404,329,777	\$446,167,505	\$582,498,942	\$450,644,929

*ESTIMATED EXPENDITURES FOR THE DEPT. OF MOTOR VEHICLES IN FY 96, FY 97, AND FY 98 EXCEED THE 22% CAP BY THE FOLLOWING:	\$1,085,259	\$1,497,468	\$2,088,524
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**DEPARTMENT OF TRANSPORTATION
COMPARATIVE STATEMENT OF CHANGES IN FUND BALANCE
FISCAL YEARS 1988 - 1995**

	ACTUAL FISCAL YEAR 1989	ACTUAL FISCAL YEAR 1990	ACTUAL FISCAL YEAR 1991 *	ACTUAL FISCAL YEAR 1992	ESTIMATED FISCAL YEAR 1993	ESTIMATED FISCAL YEAR 1994	ESTIMATED FISCAL YEAR 1995	ESTIMATED FISCAL YEAR 1996	ESTIMATED FISCAL YEAR 1997	ESTIMATED FISCAL YEAR 1998
BEGINNING FUND BALANCE	\$91,011,026	\$71,616,625	\$38,049,628	\$64,765,984	\$90,879,324	\$105,972,382	\$85,157,502	\$80,097,459	\$50,000,000	\$50,000,000
ADD:										
REVENUES	\$251,985,559	\$276,370,271	\$277,851,519	\$298,042,104	\$347,852,633	\$377,259,645	\$391,269,734	\$407,670,046	\$424,178,942	\$441,383,929
ADVANCE R/W RECEIPTS	8,301,181	6,091,455	4,681,408	7,463,553	3,193,315	8,000,000	8,000,000	\$8,400,000	\$8,820,000	\$9,261,000
TOTAL ADDITIONS FROM OPERATIONS	\$260,286,740	\$282,461,726	\$282,532,927	\$305,505,657	\$351,045,948	\$385,259,645	\$399,269,734	\$416,070,046	\$432,998,942	\$450,644,929
BOND PROCEEDS	\$0	\$0	\$30,011,280	\$33,601,949	\$0	\$100,000,000	\$0	\$0	\$149,500,000	\$0
REVERSIONS	0	42,287	72,832	(178,221)	(158,681)	0	0	\$0	\$0	\$0
TOTAL ADDITIONS:	\$260,286,740	\$282,504,013	\$312,617,039	\$338,929,385	\$350,887,267	\$485,259,645	\$399,269,734	\$416,070,046	\$582,498,942	\$450,644,929

	ACTUAL FISCAL YEAR 1989	ACTUAL FISCAL YEAR 1990	ACTUAL FISCAL YEAR 1991 *	ACTUAL FISCAL YEAR 1992	ESTIMATED FISCAL YEAR 1993	ESTIMATED FISCAL YEAR 1994	ESTIMATED FISCAL YEAR 1995	ESTIMATED FISCAL YEAR 1996	ESTIMATED FISCAL YEAR 1997	ESTIMATED FISCAL YEAR 1998
DEDUCT:										
EXPENDITURES AND APPROPRIATIONS										
DEPARTMENT OF TRANSPORTATION	\$225,628,157	\$262,742,424	\$210,378,641	\$250,239,260	\$259,901,621	\$435,957,098	\$318,065,241	\$350,317,711	\$492,688,509	\$334,773,675
EXP. & APPROP TO OTHER AGENCIES	31,928,910	36,332,885	40,557,096	45,118,336	50,739,776	55,070,867	51,545,551	57,640,748	58,844,224	60,032,917
ADVANCE RIGHT-OF-WAY PAYBACK	0	0	11,210,144	0	4,725,270	0	0	4,961,534	5,209,610	5,470,091
PRIOR YEAR ADJUSTMENTS	100,498	112,472	5,394,359	(119,372)	(28,039)	0	0	\$0	\$0	\$0
ADJUSTMENTS TO FUND BALANCE	2,892,048	(1,464,041)	978,540	140,747	1,235,901	0	0	\$0	\$0	\$0
TRANSFER TO BOND INTEREST AND REDEMPTION FUND	19,131,528	18,347,270	17,381,903	17,437,074	19,219,680	15,046,560	34,718,985	33,247,512	25,756,599	50,368,246
TOTAL DEDUCTIONS:	\$279,681,141	\$316,071,010	\$285,900,683	\$312,816,045	\$335,794,209	\$506,074,525	\$404,329,777	\$446,167,505	\$582,498,942	\$450,644,929
ENDING FUND BALANCE	\$71,616,625	\$38,049,628	\$64,765,984	\$90,879,324	\$105,972,382	\$85,157,502	\$80,097,459	\$50,000,000	\$50,000,000	\$50,000,000

* Beginning in FY 1991 "Prior Year Adjustments" reflect the removal of "Excess property approved for sale" from the NDOT Financial Statement-Balance Sheet and Statement of Changes in Fund Equity. This change was made to better conform to GAAP reporting standards.

APPENDIX F: NDOT Expenditure Submittals

F 1. Project Summary Table (in 1994 dollars)

PROJECT SUMMARY TABLE (In 1994 dollars)

	ANNUAL ELEMENT (1994)				SHORT RANGE (1995-1997)				LONG RANGE (1998-2004)			
	FEDERAL	STATE	OTHER	TOTAL	FEDERAL	STATE	OTHER	TOTAL	FEDERAL	STATE	OTHER	TOTAL
Carson	403,980	1,815,892	17,500	2,237,372	0	0	0	0	103,398,000	14,873,000	0	118,271,000
Churchill	3,295,625	723,657	13,200	4,032,482	5,974,015	299,685	70,000	6,343,700	17,149,400	5,077,600	25,000	22,252,000
Clark	103,714,831	38,147,704	29,857,768	171,720,303	231,439,805	16,472,663	70,507,865	318,420,333	1,348,400,850	76,415,900	1,346,250	1,426,163,000
Douglas	1,152,175	1,212,410	54,905	2,419,490	0	0	0	0	15,029,000	10,411,000	0	25,440,000
Elko	15,662,150	15,198,052	230,750	31,090,952	7,481,250	11,243,750	0	18,725,000	54,430,250	10,721,750	0	65,152,000
Esmeralda	0	5,584,200	0	5,584,200	0	0	0	0	16,960,350	892,650	0	17,853,000
Eureka	0	3,263,522	0	3,263,522	0	0	0	0	0	800,000	0	800,000
Humboldt	2,147,850	3,475,780	626,200	6,249,830	2,080,000	400,000	120,000	2,600,000	11,344,900	2,897,100	0	14,242,000
Lander	1,334,000	3,528,000	450,000	5,312,000	0	0	0	0	13,015,000	5,846,000	0	18,861,000
Lincoln	2,388,280	8,774,143	168,895	11,331,318	0	0	0	0	21,370,250	33,424,750	0	54,795,000
Lyon	2,188,641	7,106,771	0	9,295,412	9,893,062	1,050,087	0	10,943,149	44,252,900	17,129,100	0	61,382,000
Mineral	117,325	4,028,275	0	4,145,600	218,500	11,500	0	230,000	15,200,000	2,150,000	0	17,350,000
Nye	1,661,225	4,278,242	0	5,939,467	0	0	0	0	53,379,200	12,684,800	0	66,064,000
Pershing	104,800	51,250	26,200	182,250	1,843,827	93,090	281,849	2,218,766	237,500	2,137,500	0	2,375,000
Storey	1,534,500	0	80,763	1,615,263	0	0	0	0	0	600,000	0	600,000
Washoe	13,130,523	12,055,792	11,308,993	36,495,308	80,324,200	16,731,800	2,298,000	99,354,000	281,275,600	25,440,400	0	306,716,000
White Pine	142,500	11,157,403	15,000	11,314,903	0	0	0	0	7,614,250	5,600,750	0	13,215,000
Statewide	11,475,900	2,094,650	84,592	13,655,142	680,500	513,775	17,500	1,211,775	357,295,000	18,805,000	0	376,100,000
TOTALS	160,454,305	122,495,743	42,934,766	325,884,814	339,935,159	46,816,350	73,295,214	460,046,723	2,360,352,450	245,907,300	1,371,250	2,607,631,000
To be identified					60,064,841	283,000,000	0	343,064,841	168,000,000	715,000,000	0	883,000,000
TOTAL NEEDS					400,000,000	329,816,350	73,295,214	803,111,564	2,528,352,450	960,907,300	1,371,250	3,490,631,000
Available funds					400,000,000	300,000,000	73,295,214	773,295,214	900,000,000	700,000,000	1,371,250	1,601,371,250
UNFUNDED NEEDS					0	(29,816,350)	0	(29,816,350)	(1,628,352,450)	(260,907,300)	0	(1,889,259,750)

Even though bond projects are completed in prior fiscal years, the bond payments are included in the Highway System Plan. While this inflates the amounts committed to the applicable counties, it recognizes the major commitment of Federal and State resources required for bonded projects and facilitates alignment of available funding with obligations. Bond payments included in the 1994 annual element totals are: Clark County \$12,360,263; Lyon County \$2,686,297.

**F 2. Summary of Proposed Highway Expenditures
(shown in 1994 dollars)**

SUMMARY OF PROPOSED HIGHWAY MAINTENANCE EXPENDITURES

(Shown in 1994 Dollars)
Fiscal Years 1994 – 2004

	ANNUAL ELEMENT (1994)	SHORT RANGE (1995 – 1997)	LONG RANGE (1998 – 2004)
	STATE HIGHWAY MAINTENANCE	STATE HIGHWAY MAINTENANCE	STATE HIGHWAY MAINTENANCE
Carson City	\$1,350,000	\$4,050,000	\$9,450,000
Churchill	1,950,000	5,850,000	13,650,000
Clark	7,950,000	23,850,000	55,650,000
Douglas	2,150,000	6,450,000	15,050,000
Elko	7,300,000	21,900,000	51,100,000
Esmeralda	1,200,000	3,600,000	8,400,000
Eureka	1,700,000	5,100,000	11,900,000
Humboldt	3,400,000	10,200,000	23,800,000
Lander	1,950,000	5,850,000	13,650,000
Lincoln	1,750,000	5,250,000	12,250,000
Lyon	2,000,000	6,000,000	14,000,000
Mineral	1,300,000	3,900,000	9,100,000
Nye	3,600,000	10,800,000	25,200,000
Pershing	1,150,000	3,450,000	8,050,000
Storey	250,000	750,000	1,750,000
Washoe	7,750,000	23,250,000	54,250,000
White Pine	3,200,000	9,600,000	22,400,000
Total Maintenance	\$50,000,000	\$150,000,000	\$350,000,000

Note: 1. For explanation of Highway Maintenance Expenditures, see page C-11.

2. These expenditures include all work by State Forces including major maintenance projects by State Forces shown in the annual element of the STIP.

F 3. Statewide Transportation Improvement Program

Statewide Transportation Improvement Program

Nevada's planned transportation improvements for the next 10 years are detailed in the Nevada Department of Transportation publication, *Transportation Improvement Program 1994-2004*. The improvements presented in this publication are identified and prioritized using three key considerations: economics, laws, and national standards. Economics dictate that improvements must provide benefits greater than their costs. Additionally, federal and state laws ordain how the improvements will be planned and how they may be funded. Finally, the improvements are planned in accordance with national standards set by the American Association of State Highway and Transportation Officials.

It is easiest to understand Nevada's transportation improvement program by tracking the federal, state, and other funding involved. Each source of funds comes with its own set of rules. To receive federal funds, our transportation improvement program must conform with the provisions of the federal Intermodal Surface Transportation Efficiency Act of 1991. State funds are controlled by Nevada's constitution, which requires that, except for the cost of administration, highway funds be expended only for highway construction and maintenance. Other funds may be subject to federal, state, or local requirements. A flowchart that tracks funding sources, distributions, and prioritization is attached (see Attachment A).

Federal Funds

The Intermodal Surface Transportation Efficiency Act of 1991 requires that statewide transportation plans be carefully coordinated between state highway agencies, local governments, and the public. A flowchart that summarizes this complex planning process is attached (see Attachment B).

The majority of the federal transportation funds that Nevada receives are dedicated to constructing new highways, adding capacity to existing highways, or reconstructing older ones. No federal funds are available for routine maintenance. New-highway and capacity-improvement projects are prioritized through benefit/cost analysis. Pavement reconstruction is prioritized along with pavement preservation projects as detailed in the State Funds section that follows.

Nevada also receives federal funds for highway safety projects, bridge rehabilitation and replacement, bridge seismic retrofits, congestion mitigation, transportation enhancements, public transit, research, and railroad and airport planning. Highway safety projects are prioritized using benefit/cost analysis. Bridge rehabilitation and replacement projects are prioritized based on bridge sufficiency ratings. Bridge seismic retrofits are prioritized based on risk analysis. Congestion mitigation, transportation enhancements, public transit, research, railroads, and airports are objectively and subjectively prioritized based on expected benefits (usually by committees that include the public and public-agency staff).

State Funds

Within Nevada's transportation improvement program, state funds are used for pavement preservation, highway maintenance, administration, matching federal funds, and paying bond interest. State funds also support transportation-related programs in the Nevada Department of Motor Vehicles & Public Safety, the Public Service Commission, the Department of Taxation, and other state agencies.

Because Nevada has a huge investment in its existing highway system, most of Nevada's state funds are used for pavement preservation. Principally, preserving pavement entails resurfacing roadways. Preservation projects are identified and prioritized based on pavement condition, ride quality, maintenance costs, safety, climate, and traffic volume. A detailed description of Nevada's preservation program can be found in our Department's *State Highway Preservation Report*. In the *Transportation Improvement Program 1994-2004* publication, preservation projects are included in the short- and long-range elements of the Highway System Plan section under state expenditures "to be identified."

Routine highway maintenance is entirely state financed. Some maintenance work is scheduled and some is performed as needed. Maintenance work is objectively and subjectively prioritized based on the expected benefits.

State-matching funds are required for most federally funded transportation projects. These state-matching funds are prioritized as the federal funds/projects they accompany are implemented.

State funds used to pay bond interest are included in Other Funds below.

Other Funds

Within the Highway System Plan section of Nevada's *Transportation Improvement Program 1994-2004* is a source of funds called "other." Other funds include bond proceeds and local-government contributions. Projects using "other" funds usually include federal participation and are prioritized like other federal funds.

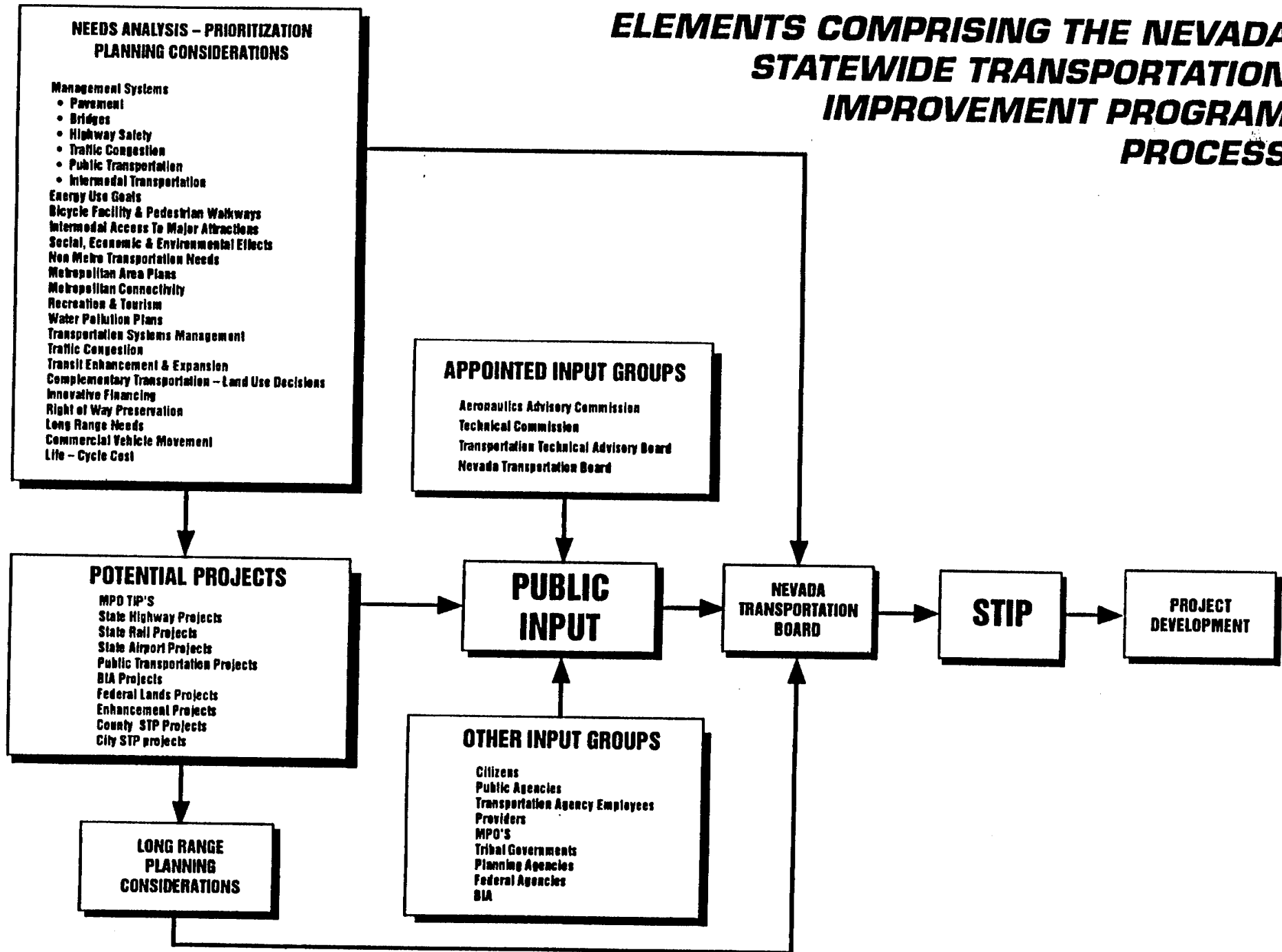
Nevada uses bonds to accelerate construction of new highways that are eligible for federal funds but for which no federal funds are currently available. The bond principal is paid with federal and state-matching funds as they become available; the bond interest is paid with state funds. Bonds are currently funding major highway construction in Washoe and Clark counties.

Local government funds are usually provided to match federal funds for bridge replacement, safety enhancement, congestion mitigation, and enhancement projects.

Statewide Transportation Improvement Program

<u>Principal Funding Source</u>	<u>Deposited To</u>	<u>Distribution</u>	<u>Source of Funds</u>	<u>Prioritized By</u>
Federal Fuel Taxes Heavy-Vehicle Use Tax Tire Excise Taxes Truck Sales Tax	→	→ State-Agencies DMV&PS PSC Taxation Others	Principally State	State Legislature Appropriations
State Fuel Taxes Registration Fees Driver Licenses Privilege-Tax Commission Motor-Carrier Fees	→ State Highway Fund	→ New Highways & Capacity Improvements Reconstructed Highways	Principally Federal w/ State Matching Bonds Federal & State	Benefit/Cost Analysis Same as Pavement Preservation Projects
Other Local Bonds	→	→ Pavement Preservation Projects → Highway Maintenance → Bridge Replacement/Rehabilitation → Bridge Seismic-Retrofits → Safety → Congestion Enhancements Public Transit Research Railroad Planning Airport Planning	State State Principally Federal w/ State or Local Matching Principally Federal w/ State Matching Principally Federal w/ State Matching	Multiple Factors Condition Ride Quality Maintenance Costs Safety Climate Traffic Volumes Objective & Subjective Analysis Bridge Sufficiency Rating Risk Analysis Benefit/Cost Analysis
				Objective & Subjective Analysis Public-Agency Staff Public

ELEMENTS COMPRISING THE NEVADA STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM PROCESS



F 4. Development of Nevada's Transportation Improvement Program 1994-2004.

Development of Nevada's Transportation Improvement Program 1994-2004

The Nevada Department of Transportation, as part of its planning and program development process, is required by Nevada Revised Statute 408.203 to develop a comprehensive Short Range (3 year) - Long Range (10 year) Plan identifying the State's highway construction and maintenance needs. Candidate projects for the plan are identified based on national safety standards and nationally accepted guidelines from the American Association of State Highway and Transportation Officials. Input for improvement projects is also received from the Statewide Transportation Technical Advisory Committee, local governments, the general public, etc.

The Statewide Transportation Technical Advisory Committee is comprised of statewide officials from the Clark and Washoe Counties' Regional Transportation Commissions, and from other local, state and federal agencies (see Attachment A). This Committee is required by the Intermodal Surface Transportation and Efficiency Act of 1991 to provide statewide coordination and recommendations to the State for the development of the Statewide Transportation Improvement Program. Following are the dates that the Advisory Committee met to develop the 1994-2004 Transportation Improvement Program:

June 12, 1992
July 10, 1992
August 14, 1992
September 11, 1992
October 16, 1992
November 13, 1992
January 29, 1993
February 26, 1993
March 12, 1993
April 9, 1993
May 14, 1993
June 11, 1993
August 13, 1993
September 10, 1993

Once a draft of the Short Range - Long Range Transportation Improvement Plan has been developed, NDOT Management travels to each county to present the proposed plan to local officials. Comments from local governments are noted, reviewed, and if approved, added to the plan.

Following is a list of counties and dates where NDOT presented a draft of the current 1994-2004 Transportation Improvement Program for local government review:

Carson City	-	July 15, 1993
Churchill	-	July 21, 1993
Clark	-	August 12, 1993
Douglas	-	August 12, 1993
Elko	-	July 21, 1993
Esmeralda	-	August 3, 1993
Eureka	-	July 20, 1993
Humboldt	-	August 10, 1993
Lander	-	July 15, 1993
Lincoln	-	August 5, 1993
Lyon	-	August 5, 1993
Mineral	-	August 5, 1993
Nye	-	August 3, 1993
Pershing	-	July 20, 1993
Storey	-	August 3, 1993
Washoe	-	July 22, 1993
White Pine	-	July 28, 1993

Following presentation of the 1994-2004 3-Year/10-Year Plan to the counties and making approved changes, the Plan was submitted to the Department of Transportation-Board of Directors for approval. The Plan received Board approval on September 23, 1993.

CURRENT MEMBERS
STATEWIDE TRANSPORTATION TECHNICAL ADVISORY COMMITTEE

1. Clark County Regional Transportation Commission
Lee Gibson Alt: Dennis Mewshaw
2. Washoe County Regional Transportation Commission
Greg Krause Alt:
3. Bureau of Land Management
Margaret Phillips Alt: Kim Schuett
4. Bureau of Indian Affairs, Western Nevada Agency
Howard Riedl Alt: Johnnie Garcia
5. Bureau of Indian Affairs, Eastern Nevada Agency
Marvin Cota Alt: Charles O'Rourke
5. Nevada League of Cities
Thomas J. Grady Alt: Nancy Howard
6. Nevada Association of Counties
Robert S. Hadfield Alt: Michelle Bero
7. Commission on Tourism
Larry Friedman (No Alternate)
8. Tahoe Regional Planning Agency
David Ziegler Alt: Keith Norberg
9. Division of State Parks
Steve Weaver Alt: Linda Eissmann
10. Division of State Lands
Pam Wilcox Alt: Mike Del Grosso
11. Department of Environmental Protection
Lowell H. Shifley Alt: James M. Brandmueller
12. Federal Highway Administration
Frederick (Bud) G. Wright Alt: Randy Bellard
13. Federal Transit Administration
Don Cover Alt:
14. Statewide Bicycle Advisory Board
Janet L. Pirozzi Alt: Ed Thiessen or David Jickling
15. Statewide Aviation Technical Committee
Vacant Alt:

CURRENT MEMBERS
STATEWIDE TRANSPORTATION TECHNICAL ADVISORY COMMITTEE

16. Nevada Department of Transportation
Alt:
17. Statewide Transit Technical Advisory Committee
John DelMare Alt:
18. State Office of Community Services (Energy)
DeeAnn Parsons Alt:
19. Highway Users Federation
Vacant Alt: Gary Milliken
20. Communities (Population 5,000 to 200,000)
Mayor Marv Teixeira Alt: Harvey Brotzman
21. Office of Traffic Safety
Sue Newberry Alt: Marlen Schultz
22. Federal Aviation Administration
Herm Bliss Alt: Peter Melia
23. Inter-Tribal Council
Daryl Crawford, Chairman Alt: A. Brian Wallace

**APPENDIX G: Nevada Department of Motor Vehicles
& Public Safety Submittals**

G 1. Number of Vehicles Registered

NUMBER OF VEHICLES REGISTERED¹

	NEVADA BASED			NON-NEVADA BASED	TOTAL	
Year	Power	Trailers	Total	Power Only	Power	Trailer
1989	8,693	1,278	9,971	288,681	297,374	1,278
1990 ²	11,045	2,758	13,803	308,218	319,263	2,758
1991	11,605	3,386	14,991	338,336	349,941	3,386
1992 ³	11,933	4,489	16,422	500,884	512,817	4,489

¹The numbers represented in the graph are all vehicles over 26,000 pounds, all apportioned vehicles and vehicles under 26,000 pounds that are part of a fleet that is registered with the Motor Carrier Bureau within the calendar year.

²Registration fee changes per AB943 effective January 1, 1990.

³Implementation of IRP effective 1/1/92.

G 2. Vehicle Registration

VEHICLE REGISTRATION

The Motor Carrier Bureau requests all vehicles with a declared gross weight in excess of 26,000 pounds, all vehicles with apportioned registrations, and, optionally, vehicles under 26,000 which are part of a fleet registered through the Motor Carrier Bureau.

Motor vehicles and trailers operated upon the highways of this state must be registered with the Department, with certain exceptions (NRS 482.205). The following are exempt from registration (NRS 482.210):

- a. Special mobile equipment.
- b. Implements of husbandry temporarily drawn, moved or otherwise propelled upon the highways.
- c. Any mobile home or commercial coach subject to the provisions of chapter 489 of NRS.
- d. Golf carts which are traveling upon highways properly designated by the appropriate city or county as permissible for the operation of golf carts and operating pursuant to a permit issued pursuant to this chapter.
- e. Mopeds.
- f. Towable tools or equipment as defined in NRS 484.202.
- g. Any motorized conveyance for a wheelchair, whose operator is a handicapped person not able to walk about.

A farm or ranch vehicle or combination of vehicles may be registered on the unladen weight of the vehicle(s) rather than the declared gross weight provided the vehicle is: controlled and operated by a farmer or rancher, used to transport his own livestock, agricultural products, farm machine or supplies to or from a farm or ranch; and is not used in the operation of a common contract carrier. A "farmer" or "rancher" means a person who drives at least two-thirds of his gross income from cultivating the soil or raising agricultural commodities. (NAC 482.430)

Vehicles properly registered in another state by a resident of that state may be operated in Nevada without Nevada registration (NRS 482.385). However, if such a vehicle is used for a gainful purpose in this state, it must be registered with the Department (NRS 482.385).

Non-resident motor carriers may operate their vehicles in this state without Nevada registration, providing the vehicles are properly registered in their base state, and that state does not require the registration of Nevada-based vehicles engaging in like carrier services in their state (NRS 482.390).

A non-resident motor carrier operating a vehicle in excess of 26,000 pounds which is not registered in Nevada, has the option of obtaining a temporary permit (NRS 706.521).

TAXATION OF SPECIAL FUEL

Special fuel is any combustible fuel, except gasoline, used in the propulsion of motor vehicles (NRS 366.060). Special fuel, for which tax revenue is received, is comprised of diesel fuel, compressed natural gas (CNG), and liquified petroleum gas (LPG).

The present tax rate is 27 cents per gallon on diesel fuel, and 23 cents per gallon on CNG and LPG (NRS 366.190). CNG, because it is a gas, is converted to gallons by a formula established in NRS 366.197. LPG, although a liquid, is included in the conversion formula established for CNG.

Special fuel tax is assessed on the sale or use of fuel in this state, with certain exceptions. Special fuel that is not used to propel a motor vehicle on the highways is exempt from the tax. This includes use of special fuel in construction and mining equipment, farming equipment and for off-highway travel such as travel on private farms or ranches. Additionally, sales made to the United States government, the state, a county, municipality district or other political subdivisions are exempt. Fuel used to propel buses operated by a transit system that uses public money to operate the system or acquire new equipment is also exempt from taxation. (NRS 366.200)

If special fuel is purchased from a special fuel dealer in this state, the tax is collected upon the sale of the fuel. A special fuel dealer is a person who is in the business of handling special fuel and who delivers special fuel into the fuel tanks of motor vehicles not owned or controlled by him (NRS 366.070). Some large special fuel users may maintain their own fuel storage and purchase special fuel directly from a fuel distributor. Since the distributor delivers fuel into storage tanks, tax is not assessed upon these sales.

Because the special fuel tax is also assessed on the use of special fuel in this state, tax is due when a special fuel user consumes the fuel from his bulk storage, and when special fuel is purchased outside the state but consumed within the state by a special fuel user. A special fuel user is a person who consumes special fuel for the propulsion of motor vehicles upon the highways of this state (NRS 366.070).

Persons who use special fuel are required to be licensed by the Department (NRS 366.220; 366.720). There are certain exceptions to the licensing requirement (NRS 366.221). These are:

- a. Operators of motor vehicles who make occasional trips into this state for service or repair.
- b. Operators of house coached as defined in NRS 484.067.
- c. Operators of motor vehicles having a declared gross weight of 26,000 pounds or less.

- d. Operators of unladen motor vehicles purchased in this state for the trip from the point of delivery to the state boundary.
- e. Operators of motor vehicles who make occasional trips into or across this state for non-profit or eleemosynary purposes.
- f. Operators of motor vehicles used in the production of motion pictures, including films to be shown in theaters and on television and video discs and tapes.
- g. Private motor carriers of property which is used for any convention, show, exhibition, sporting event, carnival, circus, or organized recreational activity.
- h. A private motor carrier of property which is used to attend livestock shows or sales.

If a special fuel user who meets one of the criteria for exemption from licensing does not purchase special fuel in this state in an amount commensurate with his consumption of special fuel in this state, he must obtain a special fuel users license.

There is no fee for the issuance of a special fuel users license, and a bond is not required.

As of January 3, 1994, there were 8,446 actively licensed special fuel users: 454 users licensed through IFTA; 6,225 non-Nevada based, non-IFTA users; and 1,767 Nevada-based intrastate and interstate, non-IFTA users.

Special fuel users must file a quarterly tax return with the Department (NRS 366.380). The return is due by the last day of the month following the end of the quarter. The return must identify the total gallons of special fuel consumed in Nevada, and the tax liability is determined based on this amount. Fuel consumption is calculated by dividing the total fleet miles travelled in Nevada by the average fleet miles per gallon. If a special fuel user has purchased fuel in Nevada, paying tax at the time of purchase, the tax liability is reduced by the amount of special fuel tax paid (NRS 366.540). If the amount of special fuel tax paid exceeds the tax liability, the user may receive a refund or credit the excess against future tax liability.

Nevada-based interstate special fuel users who operate in states which are members of IFTA report miles travelled in each IFTA jurisdiction and calculate the tax liability for each jurisdiction in the manner described above. The user then calculates the net tax liability and either remits the amount due or applies for refund or credit.

Special fuel dealers must obtain a license from the Department (NRS 366.220; 366.290; 366.720). There is no fee for a special fuel dealer's license, however a bond is required (NRS 366.240; 366.550). Prior to October 1, 1993, the bond requirement was at least \$1,000, but no more than \$25,000. If a bond of more than \$5,000 was required, the department is authorized to reduce the required amount to no less than \$5,000 if the dealer was in compliance with all laws and requirements for the preceding three calendar years. As of October 1, 1993, the bond requirement was increased to three times the monthly tax liability. If a dealer is habitually delinquent, the bond requirement must be increased to five times the monthly tax

liability. The Department is presently developing regulations to establish criteria for bond reductions because of many complaints from special fuel dealers over the higher bonding requirements.

Special fuel dealers must file a monthly tax return with the Department (NRS 366.385). The monthly return is due by the last day of the following month. Special fuel dealers are allowed a commission of 2 percent of the tax collected (NRS 366.390). The commission is deducted from the tax collected before remittance to the Department.

As of January 3, 1994, there were 204 actively licensed special fuel dealers in the state.

G 3. Motor Carrier Bureau Audit Program

MOTOR CARRIER BUREAU AUDIT PROGRAM

The Motor Carrier Bureau of the Registration Division is authorized ten Auditor II and one Supervisory Auditor position. Two of the ten Auditor II positions are based in Las Vegas, one in Elko and one in Reno and conduct field audits in their respective areas. The remaining six auditor positions are based in Carson City.

The Motor Carrier Bureau audits both motor carriers and special fuel dealers. Audits are conducted primarily to determine the correct tax liability/credit for prior tax periods.

The audit effort involves two types of audits:

1. **Field Audits.** These audits are performed at the carriers or dealers offices in and out-of-state and will include a review of licensing and special fuel tax records.
2. **Desk/In-Office Audits.** These audits are prepared in office and utilize data provided on tax returns, license and bond information, fuel receipts and other available information. This type of audit addresses primarily delinquent returns and other past due tax liabilities.

The selection of geographical areas (out-of-state) for audit is made by the Supervising Auditor with research and input by the audit staff. Utilizing a semi-annual printout of all carriers by zip code, the Audit Section of the Motor Carrier Bureau selects the future audits using the following criteria:

- Relative size of carrier (number of units and mileages)
- Current status of the licensee
- Percent of Nevada travel
- Temporary licenses purchased
- Average fuel consumption
- Consistency and inconsistency in filing returns for the past three years
- Frequency and types of errors contained in tax returns
- Reasonableness of the returns
- Considerations also include timeliness of license renewal, tax return filing, license fee payments.

No random audits of motor carriers and special fuel dealers are performed at this time. All Nevada special fuel dealers are scheduled for an audit review within a three year period.

Motor carrier audits may consist of either a sample of source documents, or a 100% audit. Most carrier audits are performed on a sample basis of at least two months and no more than three quarters for a 36 months audit period.

The International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA) require that the base state audit at least 15% of their carriers within a five year period. The five year period starts with the implementation date and the initial audits under IFTA must include at least

four quarters of tax reporting under the agreement. The Motor Carrier Bureau is starting its IRP and IFTA audit program as of January 1994. The selection of the Nevada based carriers to be reviewed for a possible audit will initially be accomplished at random through the Lockheed IMS "VISTA AUDIT MODULE". This selection process in the VISTA audit module will also include the IFTA audit requirement that 25% of all audits be of accounts with the greatest fleet mileage, and 15% be of accounts reporting the fewest fleet miles. However, the standard audit selection criteria will then be used to identify the carriers to be audited.

The number of IRP audits to be performed by December 31, 1996 will be based on 3% of the accounts licensed in each of the five license years. Approximately 1,000 Nevada based carriers were apportioned under IRP for the 1992 and 1993 license years. Therefore, at least 30 accounts must be audited for each year. The Motor Carrier Bureau licensed 327 Nevada special fuel users under IFTA as of July 1, 1992 and 454 for the 1993 license year. Therefore, 10 accounts must be audited for the 1992 license year and 13 for 1993. However, as the number of jurisdictions participating in the International Fuel Tax Agreement increases, additional Nevada-based carriers will license under the agreement. We anticipate that by 1996 the number of IFTA accounts will match the IRP licensees in Nevada and will require audits of 30 or more accounts per year.

IRP and IFTA audits must include a review of the carrier's operational records. Desk audits cannot be counted towards the 15% requirement.

Motor carriers are only targeted for a follow-up audit if the initial review identified significant problems. Because of the size of an account (number of vehicles and miles operated in Nevada), an audit for a shorter period may be performed. If it reveals compliance problems and results in an assessment, the carrier may be audited again within a three year period.

During the 1987 legislative session NRS Chapters 366 and 706 were amended to include a provision that records must be retained for a period of seven years for audit purposes, if a zero return is filed or the carrier fails to file a return for any tax period. This provision has mainly been used to date for desk audit assessments, with the exception of some unlicensed special fuel dealer accounts. Because of the "stop switches" in the computer system, an on-going business would not be able to renew its license with the Motor Carrier Bureau if delinquencies existed. Zero returns are addressed routinely on field audits, but have not required auditing beyond the three year limitations.

No comparison is available for three versus seven year periods, since field audits are conducted for up to 36 months. Prior to the computer program flagging delinquent carrier accounts, the Audit Section included delinquent accounts in its field audit selection. However, at this time delinquent accounts are more timely addressed by the Revenue Section. We have found that when a carrier is included in a field audit schedule because of a delinquency, the auditor can no longer locate the carrier at the address of record. Therefore, estimated desk audits are usually performed on such accounts. Since in-house audits only charge existing liabilities based on an average, no comparison with field audit review of records and additional assessments is possible.

With the number of motor carriers licensed as special fuel users by the Motor Carrier Bureau and ranging from 15,000 in 1991 to 8,000 in 1993, many carriers will never be audited. A follow-up audit is only performed if the initial review identifies significant problems.

G 4. Miles Driven in Nevada.

MILES DRIVEN IN NEVADA

1989	1990	1991	1992
544,423,379	586,191,194	591,910,991	596,174,219

The miles in 1989, 1990, and 1991 are compiled from the quarterly user tax returns that all licensed special fuel users were required to submit to the department. In 1992, Nevada became a member of the International Fuel Tax Agreement. Carriers based in member jurisdictions are allowed to file the tax returns with their base state and the base state then submits the information and any monies due to our department on a transmittal. The miles in 1992 are compiled from the quarterly user tax returns that are submitted directly with Nevada and the IFTA transmittals received from the other jurisdictions.

The above figures include miles driven on Nevada's public highways by licensed special fuel users with vehicles over 26,000 pounds gross vehicle weight and miles driven by vehicles 26,000 pounds and under if the user buys the fuel in bulk and does not pay the tax at the time of the sale. These miles do not include miles driven by unlicensed vehicles traveling under a temporary permit.

APPENDIX H: "Briefing on Weight-distance Taxes"

BRIEFING ON WEIGHT-DISTANCE TAXES

Background

Academics and many others who have studied highway user fees equity have long maintained that weight-distance taxes (WDT) are more equitable than other highway user fees. Several States including Arizona, Idaho, Kentucky, New Mexico, New York, and Oregon impose WDTs on trucks, either in lieu of or to supplement other user fees. Nearly ten years ago, it was suggested that a Federal WDT be evaluated as a means to bring overall Federal user charges on heavy trucks more closely in line with their Federal highway cost responsibility.

The Deficit Reduction Act of 1984 (DRA) required the Department of Transportation to conduct a study of the feasibility of a Federal WDT. The Department's 1988, report prepared in response to the requirement, concluded that a WDT would be a "feasible alternative to the existing nonfuel taxes".

Among the concerns expressed by the motor carrier industry about a Federal WDT is the high cost of complying with such a tax and the problem of enforcing a WDT. The Department, in its report, concluded that neither compliance costs nor enforcement issues were significant enough to preclude a WDT. It did note, however, that small carriers might have greater costs than larger carriers.

Several developments since the 1988 WDT feasibility study could help reduce compliance costs and ease enforcement of a Federal WDT. Chief among those is the requirement that by 1996 all States must belong to the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA). Mileage reporting and record keeping requirements under these plans could largely meet requirements for interstate carriers to comply with a WDT. Intrastate carriers are not required to be in the IRP or IFTA, but a number of States include them voluntarily.

Current Federal Highway User Charges

Federal highway user charges currently include taxes on motor fuels, truck tires, heavy truck sales, and a progressive Heavy Vehicle Use Tax (HVUT) on vehicles with gross weights over 55,000 pounds. The chart below shows the proceeds of each tax in 1991.¹

User Tax	1991 Proceeds	Percent of Total
Fuel tax		
Gasoline tax*	\$9,371,882	65%
Special fuels tax**	\$3,141,894	22%
Vehicle excise tax	\$1,047,422	7%
Tire tax	\$357,070	2%
Heavy vehicle use tax	<u>\$574,926</u>	4%
Total	\$14,493,194.00	
* includes gasohol		
** primarily diesel		

Trucks account for almost all receipts from special fuels, excise, tire, and heavy vehicle use taxes. On average, over 60 percent of all user fees on heavy trucks are fuel taxes. This varies significantly from vehicle to vehicle depending on characteristics of the vehicle and its use. While vehicle weight is a small factor in each type of user fee, it is a major factor only in the HVUT, and that tax is a flat rate that does not vary with a vehicle's annual travel. Currently, the HVUT increases from an annual charge of \$100 for vehicles registered at 55,000 pounds to a maximum of \$550 for all vehicles registered at weights over 75,000 pounds.

In developing the highway user charge structure and in setting user charge rates, an important consideration is the equity of the tax structure. Equity can be defined in several ways; the current definition measures equity by comparing the user fees paid by each vehicle class to the relative highway costs occasioned by operation of vehicles in that class. The goal is to develop a user charge structure that most closely matches user fees payments to highway cost responsibility for each class of vehicle.

In addition to equity; however, highway user fees also must be easy to administer, comply with, and enforce. These requirements severely limit the number and types of user fees that may be imposed. Without these constraints, a user charge structure could be designed that was equitable for almost all vehicles.

Factors affecting the user fees paid by particular vehicles under the current tax structure include the vehicle's total travel, its fuel efficiency and weight, the number and weight of tires, and the vehicle's cost. Factors affecting a vehicle's highway cost

responsibility include the amount of travel, the axle loads associated with that travel, and the vehicle's weight and configuration.

The 1982 Federal Highway Cost Allocation Study (HCAS) analyzed several alternative user fee structures to bring the user fee structure more closely in line with the highway cost responsibility of various vehicle classes. Significant tax increases on heavy trucks were enacted in the Surface Transportation Assistance Act (STAA) of 1982, although rates for the heaviest trucks were not as high as had been recommended in the HCAS.

In its 1984 report to Congress on "Alternatives to Tax on Use of Heavy Trucks," the Department concluded that combination vehicles with gross weights over 75,000 pounds would pay only $\frac{2}{3}$ of their highway cost responsibility under rates enacted in the STAA of 1982, whereas combinations with gross weights under 70,000 pounds would pay almost 10 percent more than their fair share of highway costs. Despite these conclusions, HVUT rates were reduced by over $\frac{2}{3}$ in the DRA, with lost revenues being made up by imposition of a 6c per gallon "diesel differential" on all vehicles over 10,000 pounds. These changes resulted in lower tax rates on the heaviest vehicles which already were paying less than their fair share of highway costs and higher taxes on many vehicles that were paying more than their fair share. In recognition of these inequities, the DRA called for the Department to study the feasibility of a Federal WDT.

Findings of the 1988 study "The Feasibility of a National Weight-Distance Tax"

The 1988 study of the feasibility of a Federal WDT was not intended to be an exhaustive evaluation of specific rate structures or administrative mechanisms. Its scope was limited by Section 933 of the DRA to assessing the following characteristics of a WDT: (1) administrative efficiency, (2) taxpayer burden, (3) equity among highway users, (4) evasion potential, and (5) impacts on interstate commerce.

Two general types of WDT were analyzed, a registered gross vehicle WDT (RGVWDT) and a registered axle WDT (RAWDT). Neither structure would require carriers to record the vehicle's weight for individual trips. The RGVWDT rate would be based on the registered gross weight of a vehicle and the RAWDT would be based on registered maximum axle weights for each vehicle. No State currently registers axle weight, but each State has a maximum allowable load for single and tandem axles, and extensive data exists on axle load distributions for vehicles at any gross weight.

While the RAWDT is slightly more complex than the RGVWDT, its complexity is offset by its closer relationship to cost responsibility, especially for pavement costs. Oregon, which has the most advanced State WDT, bases WDT rates for vehicles operating over 80,000 pounds on the number of axles under the vehicle. The more

axes, the lower the rate for vehicles of any given weight. This is in keeping with the direct relationship between axle loads and pavement damage caused by a vehicle.

The report concluded that a WDT is feasible and that it would both improve the equity of the Federal highway user charge structure and help protect highways from excessively heavy vehicles. The report noted that further study would be required before an equitable WDT structure could be developed. Data needed to support development of a WDT have been improved since the 1988 study, but no specific follow-up has been done to evaluate alternative WDT rate structures.

Recent Federal User Fee Issues

Since the Deficit Reduction Act of 1984, fuel taxes have been raised twice, once in December 1990 and again in October 1993. The 1990 increase was 5¢ per gallon for both gasoline and diesel fuel with half of that amount being dedicated for deficit reduction. That 2.5¢ per gallon will be returned to the Highway Trust Fund in October 1995. Motor fuel taxes were raised an additional 4.3¢ per gallon effective October 1993, with the entire proceeds dedicated for deficit reduction. Increasing fuel taxes reduces the overall equity of the highway user fee structure. The share of total user fees paid by automobiles, pickups, and vans increases while the share paid by all other vehicle classes decreases. Since automobiles, pickups, and vans already pay more than their fair share of highway costs, increasing fuel taxes exacerbates the inequity of the user fee structure if the distribution of highway program expenditures does not change.

Future Fuel Tax Issues

There are a number of activities taking place at both the Federal and State levels of government that can have a significant effect on how highway transportation facilities will be funded in the future. Fuel taxes, since they make up over a third of the price of fuel today are subject to substantial evasion. An estimated three to five percent of gasoline taxes and 15 to 20 percent of diesel fuel taxes are not being paid. The Federal Highway Administration's Highway Use Tax Evasion Project, authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), is attempting to address this problem by providing \$5 million a year to the Internal Revenue Service and States to beef up enforcement through a cooperative Nationwide program.

Other activities include steps being taken to deal with energy and air quality problems of the Nation including proposals to increase vehicle fuel efficiency requirements to reduce global warming and the use of alternative fuels in motor vehicles to clean up the air. In anticipation of the impact, these and other related proposals may have on motor fuel revenues, which provide most of the funds used for highway transportation across the Nation, the American Association of State Transportation Officials initiated a

National Cooperative Highway Research Project to investigate alternative revenue sources ranging from congestion fees and weight-distance taxes to mileage taxes and taxes on alternative fuels based on energy content.

Traditionally, legislation has provided revenues to fund highway programs over a three or four year period. The ISTEA authorized a program for six years. Thus, from the Federal perspective, these and other issues will require reconsideration of the current legislation needed by October 1997.

APPENDIX I: Submittals re: Point of Collection of Diesel Fuel Tax

I 1. "Up & Down the Chain: Moving the Point of Taxation on Diesel Fuel"

**UP AND DOWN THE CHAIN:
MOVING THE POINT OF TAXATION
ON DIESEL FUEL**

Published by:
**Federation of Tax Administrators
Washington, D.C. 20001**

Research Report Number 142

November 1993

Foreword

In September 1993, the Federation of Tax Administrators conducted a study which focused on the point of taxation on diesel fuel. Much of the research material for the study came from responses to a questionnaire sent to 13 states. The states (below) selected for the survey had either had recent legislation which changed the point of taxation, or were considering a change in the future:

Arizona
California
Florida
Indiana

Kansas
Michigan
Missouri
Nevada
New Jersey

New York
Tennessee
Virginia
Wisconsin

The survey collected information on the entity responsible for collection of the tax; events that prompted the change; other changes that were made in conjunction with the change in point of taxation, such as penalties, registration and licensing requirements, reporting requirements, and bonding; and the revenue impact of the change.

Appendix A exhibits in tabular form the responses to each of the survey questions. Appendix B provides the narrative responses provided by each state.

This research report was prepared by Ed Collins, FTA Motor Fuel Tax Associate and Administrator, State and Federal Programs, Texas Comptroller of Public Accounts.

FTA expresses its thanks to the state tax administrators who provided the information on which this report is based.

Harley T. Duncan
Executive Director

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Up and Down the Chain: Moving the Point of Taxation on Diesel Fuel

(A Report of an FTA Survey)

Introduction

In recent years, motor fuel taxes have become the focus of compliance efforts by a large number of state tax administrators as well as the federal government. The nature of motor fuel—a fungible product—and the system of distribution and marketing, contribute to the relative ease with which dishonest people have been able to evade taxation.

Diesel fuel presents an especially difficult problem because of the large number of tax exempt uses, the variety of state tax laws, varying registration and reporting requirements, and the significant tax rate (combined state and federal) compared to product cost. The Federal Highway Administration estimates diesel fuel tax evasion is between 15 and 25 percent of gallons consumed nationwide, compared to a range of three to seven percent of gallons consumed for gasoline.¹

To obtain a more precise picture of how the states collect the tax on diesel fuel and the reasons for selecting the methods used, FTA conducted a survey of 13 states which have recently passed legislation to change the point of taxation or are considering a change at some future date. This report summarizes the results of the survey. Information was gathered on the following criteria:

- Point of taxation on diesel fuel;
- Administrative impact of legislative changes;
- Changes in penalties;
- Opposition and support for the change;
- Expected impact on revenue, voluntary compliance and evasion;
- Impact on exchange of information; and
- Effect of the federal fuel dyeing program (OBRA '93).

Point of Taxation: Moving Up and Down the Chain

The point of taxation on diesel fuel as a factor in evasion is an issue of long standing controversy. Beginning in the mid-1980s with Indiana, New York and other states, enhanced enforcement efforts were launched against dishonest and criminal elements in the industry who have stolen literally billions of dollars in state and federal fuel taxes. As more states have become aware of the problem and have developed their own motor fuel tax compliance programs, debate has continued on the most effective point in the distribution chain to impose fuel taxes.

Many tax administrators favor taxing diesel at the highest level of distribution—first import, the terminal rack, or the refinery—based on the presence of production and refining operations within a state. One of the main arguments for this approach is that normally, the number of taxpayers or license holders is greatly reduced as there are significantly fewer businesses at this level of distribution. Reducing the number of taxpayers filing reports obviously eases the administrative burden on state government. Also, it generally follows that taxation at the top of the distribution chain results in a stricter standard of accountability for bulk users (e.g. construction companies, mineral extractors, etc.), exporters and others who are typically not required to collect and remit the tax. This higher level of accountability enables states to track the movement of fuel from the refinery or terminal rack to the retail outlet or final consumer.

¹ The FHWA Joint Federal/State Motor Fuel Tax Compliance Project, Fiscal Year 1992 Report to Congress.

Moving the point of taxation usually produces an increase in revenues because of stricter reporting requirements and possibly, as one state tax official described it, "It takes the crooks a few months to change their ways of stealing taxes." Eleven of the 13 states responding to the survey reported higher revenues, or expected an increase after moving the point of taxation to a higher level. Five of the survey states now tax diesel on first import into the state or at the terminal rack. In addition, California is considering legislation to move the point of taxation to the terminal. Michigan reported diesel tax collections rose 21.3 percent during the first six months after moving the tax to the terminal (effective January 1, 1993). Indiana moved to the terminal effective October 1, 1993, and projects an increase of \$20 million in collections over the two year budget cycle. Wisconsin will move to the terminal rack effective April 1, 1994 and estimates additional revenues of \$13 million over a two year period.

At the opposite end of the distribution chain is the large population of fuel retailers. Eighteen states currently require retailers (or users as they are sometimes referenced) to collect and remit the tax on diesel, compared to only three states that require retailers to collect and remit the tax on gasoline.² While most state tax agencies have been working to pass legislation to move the point of taxation on diesel away from the retail level (e.g. to the wholesale distributor or terminal rack) a few states have either moved the point of tax back down to the retail level or are studying this system's advantages. New Jersey moved its point of taxation on diesel from wholesale to retail in July 1992. During the first year, New Jersey reported collections of almost \$30 million more than the same period prior to the change. Florida is considering moving from wholesale to retail to improve enforcement through better fuel tracking. However, there is concern about increasing delinquencies if more tax is collected at the retail level. Many tax administrators share this concern that increasing the number of taxpayers (retailers) would greatly increase the opportunities for tax evasion.

In the federal arena, the Omnibus Budget Reconciliation Act of 1993 moved the point of taxation on diesel fuel to the terminal rack effective January 1, 1994.³ Concurrently, the Act requires dyeing of tax exempt distillate fuel. Imposing the federal tax at the terminal level will reduce the number of taxpayers to fewer than 2,000. Federal administrators believe that raising the point of taxation will accomplish three important goals:

- reduce the number of tax-free transactions, resulting in a shorter audit trail;
- reduce the number of taxable transactions; and
- reduce the number of persons eligible to purchase fuel tax free.¹

"Middleman" Evasion

In 35 states the wholesale distributor is responsible for collecting and remitting the tax on diesel fuel.² Aggressive compliance programs in New York, New Jersey, Indiana, Florida, Texas and other states have demonstrated that a large portion of the abuse occurs at this level. The number of exempt uses allowed by states creates an environment for tax evasion to flourish at this point in the distribution chain. One particular problem is the common provision for tax free sales between wholesale distributors. "Daisy chains" and "burn companies" which thrive on the availability of tax free sales like these have been the meat and potatoes of tax crooks for many years.

In a daisy chain scheme, one or more dummy corporations (often called paper companies or "burn companies") are created using nothing more

² FTA Bulletin B-298, "Survey of State Motor Fuel Tax Programs," July 1992.

³ Section 13242, Omnibus Budget Reconciliation Act of 1993.

than a telephone and a mail box. State fuel tax permits are obtained in the names of the burn companies as well as federal exemption authorizations (Form 637). These permits and forms enable the crooks to purchase fuel tax free through the bogus companies. Fuel orders are sold from one burn company to another, generating tremendous amounts of paperwork in the process, before the final sale to a retailer or user (many times legitimate, sometimes part of the conspiracy) using an invoice that claims taxes have been paid or are included in the sales price. Of course, the taxes are collected but never reported or remitted. The burn company's names are then changed to avoid detection or the company simply disappears, leaving state and federal authorities to chase a "paper trail" that leads nowhere. Despite these problems, many tax administrators feel that taxation at this level is more effective than at the retail level because there are significantly fewer license holders.

Exemptions and Abuses

Virtually every state provides for tax-free (or reduced tax) sales of diesel fuel. Most exemptions are for off-road consumption of diesel, which correlates to the primary purpose of fuel taxes to provide funding for construction and maintenance of roads and highways. Off-road exempt uses include:

- construction;
- agriculture;
- marine and inland waterway uses;
- home heating;
- power take-off equipment (i.e. auxiliary equipment with a separate fuel supply not used for propulsion of the vehicle);
- aviation;
- electrical power generation; and
- railroads.

Sales to the U.S. government, state and local governments and mass transit systems are either fully or partially exempt. In addition, diesel sold for export outside a state and sales between wholesale distributors are often tax free.

As previously noted, the large number of tax exemptions for diesel fuel provides many opportunities for tax evasion. Tax-free sales hidden in "daisy chains" of paper or "burn companies" are one of the largest problems. Misuse of exemption certificates allegedly issued for off-road consumption is also a problem. A third category of abuse is tax-free sales for immediate export. Exports are especially troublesome among contiguous states with significant differences in fuel tax rates.

For example, Georgia taxes diesel fuel at \$.075 per gallon, Florida at \$.21 per gallon and North Carolina at \$.223 per gallon. Kentucky's rate is \$.124 per gallon compared to \$.21 in Ohio and \$.2035 in West Virginia.⁴ The extreme difference in rate combined with often inadequate fuel tracking systems and information exchanges between states creates a ripe environment for evasion.

Opposition to, and Support for, Moving the Point of Taxation

Regardless of whether the point of taxation is moved upstream or downstream, opposition and support appear from all segments of the industry. In states which impose the tax at the wholesale level, wholesalers collect the tax from their customers at the time of sale, but are not required to remit the tax until 20 or sometimes 30 days after the month in which the tax was collected. This provides wholesalers with a "float" — "free" money from tax receipts which can be used for investment or other short-term cash needs. Moving the point of taxation to the terminal rack removes the "float" for wholesalers and shifts the benefit from use of these tax receipts to the terminal operator or refiner. As might be expected, opposition from the wholesale distribution segment of the industry has been strong against some state legislative efforts. Opposition to the federal law change was led by the Petroleum Marketers

⁴ FHWA Publication No. FHWA-PL-93-018, pages 3-6, Table MF-102, "State Taxation of Special Fuels" (status as of January 1, 1993).

Association of America (PMAA), the Texas Oil Marketers Association (TOMA), the National Association of Texaco Wholesalers, and former IRS Commissioner Shirley Peterson who advocated an alternative proposal to move the point of taxation downward to the retail level.⁵

For similar reasons farmers, construction companies, home heating oil distributors, and other exempt off-road users are frequently opposed to taxing fuel at the terminal because they will be required pay the tax up front and then claim a refund. Many of these industries are also "dual users" — those who use both taxable and nontaxable fuel in their operations. Such dual users may find it necessary, for federal purposes primarily, to maintain separate storage facilities for undyed taxable fuel and nontaxable dyed fuel.

Up-front payments of the federal tax by these exempt users will eventually be eliminated or reduced as a result of the fuel dyeing program which will result in tax-free sales of all dyed fuel. Realistically, however, it may be some time before dyeing is in place on a nation-wide basis. States such as Indiana and Wisconsin which will tax diesel fuel at the same level as the federal government are planning to establish their own diesel fuel dyeing programs to closely match the federal program. And at least one state, Montana, has proposed legislation to mirror the federal program since it was adopted.

Moving the point of taxation from the retail to the wholesale level is often opposed for reasons similar to those stated above. These industry concerns have been resolved in a variety of ways. In Kansas, compromises were made on the requirements for exemption permits. The original version of the law did not allow dual users to receive an exemption permit. The law was revised so that dual users may now qualify for an exemption permit. In Missouri, opposition from the trucking association and retail stations resulted in exemptions being added for railroads, home heating oil, farm machinery and power take-off equipment. The statute was also revised to allow

users with monthly purchases of 60,000 gallons or more to become licensed distributors so they may purchase fuel tax free and remit the tax with their monthly distributor reports.

One active supporter of taxing diesel fuel at the terminal rack has been the National Association of Truck Stop Operators (NATSO, Inc.) whose leaders and members have aggressively pursued legislation. NATSO maintains that "moving the point of tax collection up the stream greatly increases fuel tax compliance. It evens out the price of fuel and levels the playing field for all NATSO truck stops."⁴ Indiana's shift to taxation at the terminal was supported by most large oil companies, jobbers and trucking associations, but compromises were needed concerning the "float." It was preserved through a provision allowing tax-free sales to licensed exporters for export and sales to the U.S. Government, tax on inventory for non-suppliers (installment pay-out) and collection allowances. In Michigan there was general support from major oil companies, wholesale distributors, marketers and retail dealers. Differences that did exist were resolved by allowing wholesale distributors to buy fuel tax free at the terminal using exemption certificates and requiring them to remit the tax on their own returns for tax-free purchases in excess of their tax-free sales to government, non-highway users, etc.

Additional Changes and Administrative Impact

Of the 13 states surveyed, 10 have passed legislation within the last four years to move the point of taxation on diesel fuel. With the exception of New Jersey, all of these changes moved the collection point upstream. In every case, additional statutory or administrative changes were made concurrently:

⁵ NATSO *Stop Watch*, Vol. 6, No. 7, September 1993.

- Six of 10 states reported increased penalties for fuel tax violations including seizure and forfeiture authority, felony provisions and higher monetary penalties;
- Seven states said that reporting requirements had been expanded to improve the tracking of fuel movement; and
- Eight of 10 strengthened their registration and licensing requirements, increased bond requirements, and authorized highway stops and weigh station checks for shipping documents (bills of lading) and dyed fuel.

The survey demonstrated that the administrative consequences of changing the point of taxation are significant. As would be expected, moving the point of taxation up the distribution chain results in a reduction of taxpayers required to collect and remit the tax.

- California estimates the number of license holders will drop from 90,000 at present to fewer than 1,000;
- Most respondents indicated that reporting requirements had been or will be expanded to improve tracking fuel movement;
- Kansas saw no significant change in the number of distributor licenses but exemption permits increased dramatically to over 35,000;
- Michigan implemented licensing of terminal operators, exporters, refineries and home heating oil distributors, as well as continued licensing of retail dealers;
- All 10 survey states which had recent changes, reported revisions in report forms and schedules;
- Six states expanded their compliance and investigation programs; and

- Five states have new or enhanced computer mainframes, personal computer equipment and software.

The changes in federal law to move the point of taxation to the terminal and establishing a dyeing program for diesel fuels have also been encouraging to state fuel tax administrators:

- Six states indicated they plan to use the federal dyeing program as an enforcement tool;
- Seven of the respondents felt that the changes in federal law would be an incentive for states to move the point of taxation to the terminal;
- Twelve states indicated that a terminal tax would be beneficial to the states in tracking and exchanging information on interstate fuel movements; but
- Only one state felt that state diesel fuel tax exemptions should match the federal exemptions to assist in enforcement.

The majority of the survey respondents were optimistic about the changes in state fuel tax laws and the progress they represent in fighting evasion. Eleven states have experienced or expect significant growth in fuel tax revenues and nine states believe that voluntary compliance will improve.

Conclusion

The study demonstrates that the majority of state fuel tax administrators believe the most effective point of collection for diesel fuel is at the terminal rack. This position was significantly reinforced by the recent changes in federal law, despite strong opposition from several major industry associations. One conclusion is very clear — virtually all state and federal fuel tax administrators believe that fuel tax evasion is a significant problem that may never be entirely eradicated despite the increased efforts to combat it. Aware-

ness and action are the key initiatives that have received tremendous support through the Federal Highway Administration's Joint Federal/State Motor Fuel Tax Compliance Project. Aggressive state actions have also contributed to the overall increase in enforcement initiatives.

The advantages of moving the point of taxation to the terminal are significant:

- Fewer taxpayers responsible for collecting and remitting the tax;
- Ease of administration for state administrators and industry;
- Fewer exempt sales;
- Improved ability to track the movement of fuel; and
- Real progress towards leveling the playing field for honest taxpayers.

Although the focus of this analysis is on the point of taxation, one very important finding became obvious and is a key question of whether a common or "best" point of taxation for diesel fuel is the answer to reducing tax evasion. In every instance where state legislation moved the point of tax, several other statutory and administrative changes were made concurrently. Reporting requirements were expanded to include industry segments not specifically responsible for collecting and remitting tax. This elevated accountability and improvement in state systems for "total accountability" helps track the movement of fuel and enhance the exchange of infor-

mation among the states. Registration and bonding qualifications were increased to assure the honesty and financial responsibility of applicants and to protect states against individuals who use short-lived paper companies to steal tax revenues.

Increases in penalties and felony provisions raise the risks of participating in evasion schemes and violating state fuel tax laws. Requiring shipping documents to accompany all movements of fuel, along with the ability to seize fuel, vehicles and other assets provides solid enforcement tools to state field agents. Expanded audit and investigation programs and aggressive prosecution policies help to expose and punish negligent and criminal activities. Finally, growing support from all areas of the motor fuel industry, together with the expansion of joint, cooperative efforts among the states, local law enforcement, Internal Revenue Service and other federal agencies, clarifies the common goal of eliminating the drain on state and federal fuel tax revenues.

A comment by Peter Steffens of the Florida Department of Revenue appropriately summarizes the findings of this study:

"Moving the point of taxation by itself will not solve the problem in the long term ...Tax evasion on diesel will be a problem no matter where the tax is collected.... The actions that would be most damaging to tax crooks are uniformity of report forms and schedules, uniformity of definitions and terminology, increased and enforced bonding requirements and strengthened licensing and registration requirements."

I 2. Testimony of Peter Krueger, Nevada Petroleum Marketers Association.

**TESTIMONY BEFORE THE INTERIM SUBCOMMITTEE
TO STUDY FINANCING FOR CONSTRUCTION, MAINTENANCE
AND REPAIR OF HIGHWAYS**

April 11, 1994, Elko, Nevada

Good morning. For the record, I am Peter Krueger, State Executive for the Nevada Petroleum Marketers Association (NPMA). NPMA is a trade association representing Nevada's wholesale petroleum distributors, also known as "jobbers" or "marketers." NPMA members distribute more than 200 millions gallons of fuel annually and provide direct employment for 1,000 Nevada residents with payrolls in excess of 12 million dollars.

My purposes this morning are to explain how diesel fuel is distributed in Nevada, how the State Special Fuels Tax is collected and the effects of moving the collection point from the retail level.

DIESEL FUEL DISTRIBUTION IN NEVADA

Currently, diesel fuel comes to Nevada in one of two ways. More than 95 % of the total gallons are shipped to Nevada via pipeline. Two pipelines serve Nevada: the Calnev which originates in Colton, California and terminates in Las Vegas and the Southern Pacific pipeline which originates in Richmond, California and terminates in Fallon, Nevada. Both pipelines are more than 20 years old and are operating at near capacity. The balance of fuel arrives via tank truck.

Two major terminals, or "tank farms," serve Nevada: the Las Vegas Terminal located near Nellis Air Force Base and the Sparks Terminal located just off Interstate 80 in Sparks. Both terminals receive fuel from the pipeline and tank truck. Rural Nevada is served completely via tank truck from the Las Vegas, Sparks, and Salt

Lake terminals. Some fuel is received from Boise, Phoenix and St. George, Utah. A typical tank truck hauls 10,700 gallons per load.

Once the fuel arrives at the Las Vegas or Sparks terminal, it is placed in storage tanks. The storage tanks are owned and operated by the pipeline companies, major oil companies and independents. It is at this point that the fuel is ready for distribution from the "rack." The "rack" is simply the point at which fuel is transferred into tank trucks at the terminal.

Fuel picked up at the rack is trucked to distributor bulk plants. NPMA members operate bulk plants, or secondary storage facilities, throughout Nevada. It is from these facilities that deliveries are made to bulk end users such as service stations, construction companies, mines, retail businesses, ranches and farms, homes and state and local governments.

In summary, diesel fuel arrives in Nevada via pipeline and truck. It is first stored at the terminal. Distribution is made from the terminal rack to distributor bulk plants. Distributors, or "jobbers," truck the fuel to bulk end users who either consume the fuel themselves or sell it to the public.

FEDERAL DIESEL TAX COLLECTION

Effective January 1, 1994, the IRS made major changes in the collection of the federal excise tax on diesel fuel. These changes, along with major changes made by the EPA effective in October 1993, have created significant disruptions and price swings with diesel fuel.

The EPA first mandated dyed diesel fuel in an effort to reduce the sulfur content and improve air quality nationwide. The result was a low-sulfur, red-dyed product and a higher sulfur product dyed blue.

Next, the IRS mandated that the federal excise tax be increased to 24.4 cents per gallon on all clear product used "on road" and that this tax be collected by the refiners. Prior to this, diesel fuel was sold to licensed distributors without the federal tax added.

Today, there are three different diesel fuels on the market: The first is a low-sulfur dyed *RED*, and the second is a higher sulfur dyed *BLUE*, both for use "off-road" only. The third product is a low-sulfur *CLEAR* diesel for "on-road" use only. Only the *CLEAR* product is subject to the federal excise tax.

Of course, there are some exceptions. For example, trains can use any of the three products, but if they use *CLEAR* diesel, the railroads may apply directly for a tax refund. Ranch and farm equipment may use any of the three colors, but the wholesalers must apply for the tax refund. Commercial buses, federal, state and local governments and the American Red Cross use *RED* diesel without paying the tax. Oil heat customers may use *RED* or *BLUE*, no tax. Automobiles and trucks must use *CLEAR* diesel, taxed.

The IRS is required to refund the excise tax paid by the wholesale distributors within 20 days or pay interest. Currently, distributors are having to wait more than 45 days to receive a refund. When dyed diesel is unavailable at the terminal, refunds increase dramatically because *CLEAR*, or on-road, diesel must be sold for off-road use.

STATE DIESEL COLLECTION

NRS 366 requires the collection of the special fuels (diesel) tax at the retail level; i.e., at the pump. This means that approximately 200 special fuels licensees remit tax receipts to DMV on a monthly basis for sales of *CLEAR* diesel only. The two dyed products are sold and used for off-road purposes and are therefore tax exempt. The State diesel tax of 27 cents per gallon is not collected until the product is pumped

into the tank of an on-road vehicle. The State tax is not collected for any off-road dyed diesel.

MOVING THE COLLECTION POINT

The Nevada Petroleum Marketers Association is opposed to moving the collection point to the terminal level. At this level, the major oil companies and other importers would be responsible to collect the State diesel tax and remit it to the State for all *CLEAR* diesel sold in Nevada. There are major costs associated with moving the collection point to the terminal:

1. The cost to the State for refunds. DMV would be required to issue a refund for all gallons exported from Nevada. NPMA members purchase diesel at the Las Vegas and Sparks terminals and export millions of gallons to eastern California, Oregon and Utah.
2. Diesel is not dyed until after it is received at the terminal. By collecting at the terminal, refunds would have to be provided for all fuel dyed later.
3. When shortages of dyed fuel occur, clear diesel is sold for off-road uses and refunds would be required.
4. The float (the State diesel tax collected but not yet remitted to the State) will move from the retail level to the major oil companies. This one action can mean the difference between profitability and loss for many rural retailers. The float will continue to exist regardless of the level of collection, and Nevada small businesses should have the benefit rather than out-of-state major oil companies.

If in fact this committee determines that the collection point should be moved, NPMA would support moving the point to the wholesale jobber level. By moving the collection point up one level rather than two, the goal of lower diesel tax evasion is still

Testimony before AB378 Committee - Elko, Nevada
Peter Krueger - Nevada Petroleum Marketers Association
April 11, 1994

achieved and thus more revenue for the highway fund. The major benefits for collection at the wholesale jobber level are the greatly reduced cost to the State for refunds and preservation of the float for the marketer.

This committee should also be aware that adoption of the weight distance tax would preclude any movement of the collection point from retail where it is now.

WEIGHT DISTANCE TAX

NPMA is not prepared to take a formal position on the weight distance tax at this time. However, I can tell you that the surveys returned so far indicate many of our members who are Nevada-based carriers will pay significantly more to register their vehicles under a weight distance tax system than they do under the current system. While the weight distance tax proposal would eliminate the collection of the State diesel tax at the pump, retailers would be required to dedicate at least one pump for the collection of the State tax on all vehicles under 26,000 pounds. It is also my understanding that DMV will ask that some nominal amount of State diesel tax remain on the pump in order to provide an audit trail on the diesel fuel sold in Nevada.

This concludes my remarks. May I answer any questions?

APPENDIX J: Testimony in Opposition to Weight-distance Tax

J 1. Daryl E. Capurro, NMTA

TESTIMONY OF
DARYL E. CAPURRO
MANAGING DIRECTOR
NEVADA MOTOR TRANSPORT ASSOCIATION

March 2, 1994

For the record, I am Daryl Capurro, Managing Director of the Nevada Motor Transport Association. The NMTA is a trade association representing the trucking industry operating in and through the State of Nevada. Our membership comprises all aspects of trucking services, interstate and intrastate, from one truck operators to the very largest over-the-road carriers.

We appreciate the opportunity to appear before the Legislative Interim Committee on Highway Finance today to offer our views on your mission, as well as to correct the record on some testimony offered in previous meetings of this committee. I am the lead-off speaker, to be followed by several representatives of transportation, Trucking and Shipping communities to address issues that have been raised during the course of these hearings.

As we have stated before this Committee in the past, as well as the Nevada Legislature on numerous occasions, our industry wants to be part of the solution and not part of a problem. We want good roads and are willing to pay our fair share for such highways. The question then becomes one of "What is our reasonable fair share". And, what is the politically-possible increase in revenues through taxes and fees that this Committee and the Nevada Legislature can support without impacting the economy, Nevada's competitive edge and economic development in general.

We have a clear dispute with the NDOT about its 1992 Cost Allocation study, in particular, and its overall involvement in cost allocation studies in general -- given the

fact NDOT is obviously not a neutral party in the issue before this Committee. Unfortunately, NDOT has foreclosed any other alternatives to a weight-distance tax on numerous occasions at meetings with this Committee and other groups involved with highway user fees. The NDOT Cost Allocation studies are woefully deficient in depth, especially compared to recent studies done for Arizona (Sydec study) and for Montana and others. Cost Allocation studies are subjective, not objective projects. Much like a political poll, it's how you ask the questions and the weight you give the findings. The manner in which the NDOT assigns allocators can have a large magnitude impact overall of millions of dollars on either basic vehicle or heavy vehicle classes. Other recent Cost Allocation studies in other states provide some food for thought regarding these studies. In the 1991 Vermont study, heavy and medium vehicles were assigned 21% of the cost responsibility; in the 1989 Maine study, that figure was 30%. Nevada's has ranged from 36% to nearly 41%, about the highest in the country. Bear in mind each percentage increase amounts to millions of dollars shifted from one class to the other. The NDOT does not contain specific vehicle classifications for various truck and tractor/trailer combinations and their impact on the process and on highways. For instance, not all 80,000 lb. rigs are created equal -- or impact the highways in the same manner. A 7-axle set of double trailers at 80,000 lbs. is not as damaging to the roadway as is a 5-axle tractor semi-trailer of the same weight. The Arizona study, and others recognize that fact. We strongly recommend that an independent Cost Allocation study -- not just an audit of NDOT's most recent study -- be conducted by an outside firm before this Committee, or any committee of the Legislature, attempts to raise or shift highway use fees and taxes.

The various numbers and charts that NDOT has provided this Committee in the past don't always add up -- nor do they agree with numbers provided by the Nevada DMV -- the agency which actually administers and collects every highway tax and fee except the gasoline tax. One example is the NDOT recent handout titled "Additional Highway Fund Revenue Generated If All Motor-Carrier Vehicles Pay their Cost Responsibility". In that handout, NDOT projects revenues and numbers for Fiscal Year 1994. The total

number of "Intrastate Vehicles" over 26,000 GVW is given at 7,024. However, the NDMV provided you information last meeting that indicates there were 11,933 in 1992. NDOT says there were 309,333 "Interstate Vehicles" for the same period of time, while official NDMV numbers provided to you indicate there were 500,884 power units in 1992. Which is the correct number? 7,024 or 11,933 Intrastate? 309,333 or 500,884 Interstate? This is very important because of the NDOT assertion that "Intrastate Vehicles" are overpaying while "Interstate Vehicles" are underpaying. Using the same NDOT handout some other interesting factors appear. If you calculate the taxes and fees throughout their classifications, you will find that "Intrastate Vehicles" pay \$6,750,000 in registration fees, while "Interstate Vehicles" pay \$9,500,000 in registration fees -- or nearly 60% of all registration fees for heavy vehicles. Furthermore, the NDOT creatively establishes a "Full-Time Equivalent Vehicle" category for each classification. Under that scheme 7,024 "Intrastate Vehicles" pay \$6,750,000 in registration fees, while 7,676 "Interstate Vehicles" pay \$9,500,000. By those figures the "average" Intrastate Vehicle pays \$961, while the "average" Interstate vehicle pays \$1,238 in registration fees.

Also, again using the NDOT chart, you will see that "Intrastate Vehicles" pay \$4,660,000 in special fuel (diesel) taxes, while "Interstate Vehicles" pay \$27,040,000 or 86% of the special fuel tax. A confusing part about those figures is that the total amount is approximately \$10 million short of the projected NDMV special fuel tax revenues for FY 1994 of \$41,400,000. Perhaps either NDOT or NDMV, or both, can explain the discrepancies. Under the NDOT concept for responsibility -- based conditions -- based on their Cost Allocation studies, the "full-time equivalent Intrastate Vehicle" should pay \$94 less than they pay now, while "Interstate Vehicles" should pay \$5,057 more per "full-time equivalent vehicle".

One other point I would share with you at this time. The NDMV/NDOT projections for Fiscal Year 94/95 would indicate that "heavy vehicles" will pay an average of \$74.5 Million per year. The NDOT has placed great emphasis on the difference in costs per

mile between "Intrastate" vs "Interstate" vehicles, which stems solely from the registration fee on lower mileage vehicles. Since "Intrastate" vehicle registration fees amount to \$6.75 Million, then you are talking about 9% of the total heavy vehicle revenue contribution being the reason to trash our current system and to institute a very draconian, inefficient, inequitable and burdensome weight distance tax.

There are many other statistical anomalies that crop up in NDOT charts and figures, but I won't attempt to outline all of them here. Suffice to say, we certainly are not comfortable with their numbers, and don't see how the members of this Committee could be either.

When Garth Dull told you at the last meeting that administrative costs for weight distance taxes are not much different than our current cost (2-3%) he must have forgotten about the Colorado study in 1989 that shows 21.3% or Wyoming at 20.4%, or Kentucky at 15.0% for weight-distance tax administration and enforcement. Arizona's administrator says that without their 11 ports of entry they couldn't possibly administer and enforce a weight-distance tax. Even at that they weren't very successful since the Sydec study for Arizona (at page 2-21) indicates an evasion rate for Arizona's weight-distance tax of 35%. On that same page, Sydec's analysis of special fuel tax evasion is about 20%. Please recall that at the last meeting of this Committee, during Garth Dull's rebuttal of the 35% W-D tax evasion rate, he stated that carriers must also be evading the fuel tax and registration fees by the same percentage. A quick review of Sydec's analysis would disprove that statement. Further review of some other states' experience substantiates the depth of this weight distance tax evasion problem. The Wilbur Smith and Associates study, contracted for by the Wyoming Legislature, indicated an approximate 30% evasion factor. A Colorado audit report to that state's Legislature cited an evasion rate upwards of 30%. And, a 1983 study by the Urban Center at Cleveland State University, prepared for the Ohio Department of Taxation, cited a 45% tax evasion rate. The significance of the Ohio study is that Ohio had no ports of entry, while Colorado and Wyoming had extensive port systems.

Also, the Sydec analysis of 20% fuel tax evasion matches well with the FHWA study (15-25%), Missouri's actual experience (21.1%), and Indiana's estimate of 20-25%. The difference in all of this is that there is a solution to the fuel tax evasion problem -- moving the point of taxation upstream to the terminal rack level, while no one has a solution or even a reasonable idea on how to curb weight-distance tax evasion. Ohio, Arkansas, Wyoming, Colorado, and most recently -- Arizona, have solved, or are solving the problem -- they repealed the weight-distance tax, along with nearly 20 other states who have done the same thing since 1950. In that time, not one new state has been added to the weight-distance tax column. That should tell us something about what the other states think about that issue, and its attendant enforcement, administration and evasion problems.

In closing I ask you to consider the potential economic development problems associated with the adoption of a weight-distance tax in Nevada. That was a major issue and a strong reason for Arizona to begin the phase-out of its weight distance tax. If Nevada were to impose such a tax, we believe many businesses and industries in Nevada would cease to be competitive with their counterparts in other states. Cost effective transportation is essential for Nevada businesses which import and export products throughout the country and abroad. Bear in mind, over 70% of Nevada communities are totally truck reliant. If our transportation taxes are increased substantially with a weight distance tax, as NDOT would like, then we must be prepared to face multiple economic consequences. I have provided a copy of the most recent Association of American Railroads (AAR) study of heavy truck taxes in the 48 contiguous states. Please note that Nevada ranks as the 10th most expensive state for interstate trucks to operate in. Further note that all current weight distance tax states are in the Top 10, occupying most of the top slots. I don't think the railroad industry would be doing us any favors by showing Nevada in such a bad light. The fact of the matter is if NDOT had their way, given the chart I previously referred to, Nevada would rank right up with Oregon in the number one slot on this survey. As it is, we rank 16th in registration fees (actually near the average of all states which is \$1,250) and we are

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tied for 5th in special fuel (diesel) tax. We are the 5th most expensive state of the 11 western states, with all of the current (4) weight-distance tax states ahead of us. Do we really want to be included in that next echelon of states, given the obvious drawbacks to that outdated tax system? I think not, and I hope you will agree with us.

That concludes my formal remarks. I will answer any questions you might have at this time.

Questions?

J 2. Warren Hoemann, Yellow Corporation

**Testimony before the
Nevada Interim Legislative Committee
on Highway Financing**

Reno, Nevada

March 2, 1994

I am Warren Hoemann, Vice President of Government Relations for Yellow Corporation, the parent company of Yellow Freight System. With me today is Steve Richards, Manager of Government Relations for Yellow Corporation, who in the past at Yellow Freight System was responsible for both fuel tax and weight-distance tax reporting. My own background includes service as general counsel of the Western Highway Institute, a non-advocacy trucking research organization based in California which has done substantial work in highway tax methods. Together, Mr. Richards and I are available to help this Committee as it looks at highway funding needs and solutions.

If you will pardon a bit of history, you are standing in the same place as western legislators of forty years ago. It was in 1954 that the Western Interstate Committee on Highway Policy Problems from the Western Conference of the Council of State Governments met in Gearhart, Oregon and adopted a "Statement on Taxation of Heavy Interstate Motor Vehicles," now better known as the Gearhart Declaration. The western legislators who met then were struggling, as you are, with the need to produce highway revenues, the need to include an appropriate share of those revenues from interstate vehicles, but also the need for a taxation system that works and that does not unduly burden the interstate commerce on which all western states, like Nevada, heavily depends.

The Declaration proclaimed two major principles: Each state has the power and right to develop its own highway user tax system, but the states together can cooperatively develop a system whereby interstate vehicles could meet their tax responsibility easily. The system recommended by the Gearhart Declaration was the apportionment of vehicle registration fees, the principle that underlies today's International Registration Plan (IRP). The system that was rejected by the Gearhart Declaration was a uniform weight-distance tax.

I will not quote George Santayana on the value of remembering the past, but many legislative bodies have faced the same questions faced forty years ago and have come up with the same answer: Weight-distances taxes do not work. From a high of over

twenty mileage tax states, the number has now dropped to six, and Arizona has voted to get rid of its own.

While I know you have received almost too much testimony on weight-distance taxes, I think it is important to look at the historical perspective. For example, Colorado repealed its mileage tax based in part on the "Report of the State Auditor, 1982", which found "noncompliance" with a mileage tax of up to 31%, or in Colorado's instance, \$6.7 million worth of evasion. In fact, the Colorado State Auditor added,

"Our audit discovered that no one knows for sure how many Colorado miles are driven by (mileage tax) eligible trucks The data necessary to do a thorough audit on a truck firm are not currently available due to poor recordkeeping on the part of some trucking firms."

Experiences like that in Colorado and an independent study by SYDEC led the State of Arizona to assume a 35% noncompliance rate for its weight-distance tax when Arizona began to replace the tax last year.

For motor carriers, our problem is not simply the inefficiency of a tax that can be easily evaded, but the fact that we have to compete with the 207,000 other interstate carriers, many of whom will have the "poor recordkeeping" discovered by the Colorado State Auditor.

You and I may exchange a sly grin over our neighbor who has discovered a clever way to cheat on his income tax, but it becomes a very different matter when that neighbor is a competitor and our livelihood is threatened. Similarly, you and I may agree that it is "fair and equitable" for us to split the bill at dinner, but that fairness and equity disappears when I walk out and leave you to pay the whole bill. The evasion and underreporting of mileage taxes hits us motor carriers in the same way: We have to compete on an unequal basis and we are left holding the bag for revenue shortfalls.

The Colorado State Auditor's report also demonstrates another problem with mileage taxes: Being self-reported, they are enforceable only by audit and audits demand records. Not just carrier records, but state records, too, to allow the auditor a cross-check on the carrier information. Most states which have tried mileage taxes have found it necessary to maintain extensive and expensive port of entry systems to collect those state records. Even with a port system, Colorado, Wyoming and Arizona have all recently found mileage taxes difficult to enforce.

The problems of weight-distance tax enforcement are compounded on an intrastate basis. Intrastate carriers are not required to keep any records supporting registration fee apportionment or any records supporting fuel usage. Just as there are no carrier records on an intrastate basis, there are no state records to verify carrier information. Even states who have had elaborate port of entry systems have conducted little or no monitoring of truck travel on an intrastate basis.

For those concerned with the "equity" of highway taxation, there is no greater inequity than a tax that encourages cheating by direct competitors. While Yellow competes against the other 207,000 interstate carriers I mentioned (at least 12,000 of which are known to do business in Nevada), the Nevada-based intrastate carrier competes with his intrastate counterparts. Under a weight-distance tax, the experience in Colorado and other states tells us that the honest Nevada intrastate carrier will have no protection if his own competitors decide to take advantage of this completely self-reported tax.

But it's a different type of "inequity" that the proponents of a weight-distance tax for Nevada are alleging. We and you have heard in public testimony and in direct mail solicitations how "inequitable" it is for the "interstate carrier" to pay less tax per mile than the "intrastate carrier". In fact, both the direct mail pieces and the direct testimony of the weight-distance tax proponent have cited my company by name as a prime example of this "inequity" and have further alleged that Yellow purchases no fuel in Nevada and apportions all of our vehicle registration fees.

Let me straighten out the facts first about Yellow in Nevada and then go on to address the faulty concept of "inequity" being propounded by the tax proponent. Yellow has two Nevada locations. We employ 156 people, with a payroll of \$4,691,867. But, contrary to the proponent's statement, last year we purchased 1,158,564 gallons of fuel in Nevada. That represents over 85% of our fuel consumption in the State. Fuel taxes for the balance are distributed to Nevada through the International Fuel Tax Agreement (IFTA). And we even have 30 Nevada intrastate trucks on which full Nevada registration fees are paid.

Those numbers are available to the State. Other State numbers demonstrate, quite contrary to what we all have been told, that it makes no sense to compare the highway taxes of interstate and intrastate carriers on a per mile basis. The reason: Most of your highway costs – the money spent by the Nevada DOT – is unrelated to truck travel on Nevada's highways. If those highway costs do not vary by truck mileage, then it is clearly inequitable to tax the higher-mileage interstate trucks on a per mile basis for costs they are not creating.

You and I would agree that the costs created by truck travel would be reflected most directly in money spent by the Nevada DOT on pavement maintenance. Attached are the official Nevada DOT reports filed with the Federal Highway Administration (FHWA) for "Routine Maintenance Expenditures" on the Interstate System and on all systems except the Interstate for the years 1991 and 1992. These reports were obtained from FHWA itself. If you look at the list of "critical elements", you will see that only the first two are money spent by the Nevada DOT directly on pavement maintenance. Of course, some of the costs reflected there under "flexible pavement and shoulders" and "rigid pavement and shoulders" are related to weather, freeze and thaw, automobile and light truck travel and just the passage of time. But even taking those two numbers in their totality, you can see that, as reported by the Nevada DOT itself, most highway maintenance costs are unrelated to mileage. Here's a chart on how it works out:

YEAR	\$ USE-RELATED	\$ TOTAL MAINT	% USE OF TOTAL
1991 Interstate	1,525,246	4,947,137	30.8%
1991 Non-I-state	11,348,074	26,899,485	42.2%
1991 Combined	12,873,320	31,846,622	40.4%
1992 Interstate	1,426,587	5,109,555	27.9%
1992 Non-I-state	10,237,198	27,129,020	37.7%
1992 Combined	11,663,785	32,238,575	36.1%
'91-'92 Combined	24,537,105	64,085,197	38.2%

Now, the FHWA annually publishes a compilation of these state statistics from across the nation. Typical to the federal government, those FHWA compilations run about two years behind, so the most recent one contains 1991 data. But in that official federal publication, costs for administration are added in, increasing the 1991 routine maintenance expenditures from the \$31,846,622 shown on the attached sheets to a new total of over \$51,016,000. Administrative overhead is completely unrelated to mileage. With administrative costs considered, the mileage-related percentage of maintenance costs in Nevada now sinks to 25.2%.

Running a state DOT is a very complex affair. As you can see from the attached, even a "routine maintenance" budget contains nine "critical elements" that have little or no relation to truck mileage. By all accounts, the Nevada DOT has done an excellent job in building and maintaining a good highway system and in balancing all these other needs. My point is only that the comparison of highway taxes paid on a per mile basis makes no sense when the costs those taxes pay for are, for the most part, unrelated to truck use of the highway systems. The bulk of Nevada's maintenance costs will exist whether trucks are on Nevada's highways or whether interstate trucks are even in the State.

I have thrown a lot of numbers at you, but they are not my numbers or the federal government's, they belong to the Nevada DOT itself. Perhaps an analogy will help out. As any of us travel across the country, we expect the typical hotel to have certain basic features available: a bed, a bath, a TV, a phone, clean linens, etc. We know that when we pay for the night's lodging, we will be charged a rate per night for the time we stay there – even if we don't use all the towels. The rate we pay each night covers the availability and routine maintenance of the room and its basic features, no matter the amount of use we actually make of them. If we are kept up all night at a lengthy legislative hearing, and we only get back to our hotel room to put our head down on the pillow, we will nonetheless pay for the whole night's lodging, as if we had been in the hotel room all day.

On the other hand, we expect to be additionally charged based upon our actual use for meals we eat at the hotel's restaurant or for use of the hotel phone. We take these things for granted when we check into a hotel: We will pay an amount measured by

time (e.g., per night) and we may pay other amounts measured by use (e.g., meals eaten, phone calls made).

We pay highway taxes in the same way. We pay for the availability of the highway system by registration fees. And we pay for our use of the highway system by fuel taxes. The registration fees are measured by time — we pay a full year's of registration fees if our truck is in state and has that state's highway system available for a full year. Where our truck passes through several states, we pay an apportioned amount of the registration fees of each state according to the time spent there by the truck. In the end, the interstate truck also pays a full year's registration fee, it just pays an apportioned amount to each state. (By the way, the average registration fee paid by one of Yellow's trucks totals \$1,304, compared to the Nevada annual registration fee of \$1,360.)

Thinking again about the hotel example, you and I would justifiably complain if a hotel proposed to assess us a year's worth of lodging for just the one night we spent on the theory that the room was "available" year round. We would correctly respond that the room was only available to us the night we were at the hotel. That same reasoning has led the U.S. Supreme Court to rule that taxes measured by time, such as truck registration fees or property taxes, must be apportioned for the "instrumentalities of interstate commerce" - Supreme Court language for trucks, airplanes, ships, barges and railroads.

If you eliminate registration fees from consideration, you will find that the interstate truck and the intrastate truck currently pay almost exactly the same highway tax rate per mile — because they pay the same fuel tax rate. Only fuel taxes are a measure of highway use. Registration fees may be charged to highway "users", but they are not a "use" tax. And that is appropriate because most of the highway maintenance costs are not related to use.

Just one final point on registration fees. Under the IRP, most carriers choose to apportion their registration fees among the various states by the carrier's percentage of fleet mileage traveled in each state. Mileage is simply used as a surrogate for time spent in a state. Actually, the miles are not important; only the percentages are. And some classes of vehicles do not use mileage for apportionment at all. Rental vehicles under the IRP, for example, apportion their registration fees based upon rental receipts in each state. Ocean-going containers in those states where they must be registered as vehicles apportion their fees by "days in port", a direct measurement of time. Just as registration fees are not related to highway use, the apportionment of registration fees is simply not the taxation of mileage.

The reports filed by the Nevada DOT with FHWA raise another concern about weight-distance taxes. As you can see, there are two reports, one for Interstate highways and one for non-Interstate highways. Heavy trucks spend nearly 90% of their time on rural Interstate and primary highways. Conversely, heavy trucks spend minimal time on urban road systems and hardly any on county roads and city streets. This is illustrated

on the third attached sheet, from an earlier federal study. We all agree that everyone should pay for their use of the highways. But by the same token, we must also agree that people should not pay for roads they don't use.

The problem is, road systems differ in their costs and in their tax revenue-generating capability. For example, urban roads are by far more costly than are rural roads. Those greater costs vary almost directly with the greater traffic volumes handled by urban roads. But truck combinations contribute little to urban traffic volumes.

If we agree that people should not pay for the roads they don't use, then the tremendous cost of urban roads should be borne almost entirely by passenger cars and light trucks. Urban residents would wince at that thought.

If we agree that everyone should pay for the roads they use, then we run up against the other problem on the rural secondary and local roads. Trouble is, very few people use them. In fact, every study of road systems, including every federal highway cost allocation study and Nevada's own cost allocation study, have come to the conclusion that rural secondary and local roads don't produce sufficient highway user tax revenues to support themselves because of their low traffic volumes. (They, in other words, have the highest costs per vehicle mile.) The secondary and local roads are, instead, subsidized by taxes generated on other road systems, such as the Interstates.

In other words, a tax rate sufficient to support only the Interstate and primary roads — the roads heavy trucks use — would be insufficient to support secondary and local roads. If all we had were Interstates, the tax burden on trucks could be substantially reduced and trucks would still pay their share — of the roads they *actually* use.

Let's look at this tax shift from another angle. If each road system were to "pay its own way", then on some roads we would have to pay a "toll", a little something extra to support that system. In fact, The Brookings Institution in a 1951 study of toll roads found that *logic* dictated the imposition of tolls on secondary and local roads. Because those roads did not have traffic enough to generate self-supporting taxes, logic said that the tax shortfall should be made up by tolls *on those roads alone*. Imagine asking a farmer to pay \$2.00 every time he turns up the county road for home! Most people would say that's not fair.

Yet, that is where we end up if we agree to tax directly only on truck use of highways. If everyone pays only for the roads they use, then highway taxes should be increased on local and secondary roads. Of course, that is not politically palatable and no one in the trucking industry is seriously proposing different tax rates by road system. By the same token, though, a fundamental flaw in weight-distance taxes is that they impose a "toll" on trucks (and trucks only) for the subsidization of roads trucks don't use very much. That is an inequitable burden for *all* trucks.

But, people may argue, don't trucks benefit from the availability of the entire road system, even if trucks tend not to use portions of it? Absolutely. In fact, we all benefit,

trucks, cars and people. That's why we have registration fees, to have that entire road system available. And the complex relationship between differing road system costs and revenue-generating capability is why it is fair that the use of roads be measured by an across-the-board fuel tax. In the buffet line of road systems, trucks do not indulge in the "high-calorie" desserts that are urban roads and secondary systems.

I love oxymorons, and one of my favorites is "simple explanation". You have just received a "simple explanation" of the policy problems that haunt weight-distance taxes: they improperly assume that highway taxes can and should be compared on a per mile basis; and they improperly shift the subsidization of non-Interstate roads to trucks that do not use those systems. Still, it took a long time for that "simple" account, so you may now be able to understand why tax administrators who know firsthand that weight-distance taxes don't work *in practice* may yet feel they are *theoretically* feasible or even equitable. Truth is, weight-distance taxes do not work and they are not equitable.

More to the point here in Nevada, those who allege an "inequity" exists between interstate trucks and intrastate trucks on the basis of per mile tax comparisons are doing so in ignorance of the Nevada DOT's own reports.

Where, then, can this Committee turn for new or improved highway tax revenues? I promised at the outset that Mr. Richards and I are here to help. We will be glad to sit at the table and assist the Nevada legislature in meeting legitimate highway needs with workable highway taxes. When Nevada repealed the weight-distance tax in 1989, I personally led a group of 17 interstate carriers to tell the Governor that we were not interested in the \$25 million in tax refunds that would come our way under the lawsuit that enveloped the State's highway tax structure at that time; we were only interested in a workable tax system, and weight-distance taxes do not work. Today, similarly, we have no interest in denying any state its true needs, but we want to do our part in a way that works.

May we suggest a three-step process. *Once you determine your highway needs:*

1) Look to streamline administrative processes. We must all do more with less these days.

2) Eliminate diversion of highway taxes to non-highway uses. There is a trust placed in the State by all highway users, interstate and intrastate, that the highway taxes we all pay will find their way back to the highway system.

3) Tighten up existing tax collection before increasing tax rates. Where you are in the best position to assess administrative efforts and discover diversion of highway funds, we can offer some assistance with tax collection and some specific suggestions.

Curbing fuel tax evasion offers the best opportunity to improve tax revenues without increasing tax rates. That's not just our opinion; it's the conclusion of the Federation of

Tax Administrators in their November 1993 Research Report Number 142, "Up and Down the Chain: Moving the Point of Taxation on Diesel Fuel". And, unlike collecting weight-distance taxes, fuel tax evasion can be brought under control with simple corrective action.

Let's first look at the typical distribution chain of petroleum products, especially diesel fuel:

Refinery (Mfg.) → Importer (Supplier, Fuel Terminal Operator) →
Distributor (Wholesaler) → Bulk User or Retailer → End User or Consumer.

Generally, fuel tax evasion doesn't occur with the motor carrier or retailer. It occurs at the wholesale or distributor level through a "daisy chain" of bogus exempt sales and paper companies. Closing this tax loophole is thus in the interest of all retailers and all motor carriers, in state or out. It is done by moving the tax collection point "upstream".

For many years, fuel tax was collected at the retailer or end user (motor carrier) level. The lowest level possible, with the greatest number of potential taxpayers. This was done to accommodate tax exemptions granted various off-highway or industrial uses of fuel. While the retailer, under the traditional fuel tax collection scheme, had some control over tax evasion, over the years it was discovered that most evasion occurred at the distributor level. Product was sold by the distributor to the retailer tax paid; however, the distributor did not remit the tax to the state. States trying to close the evasion gap by collecting directly from the distributors soon became lost in the "daisy chain" of elaborate fraud.

To move the tax collection point "upstream" simply means collecting the tax at the highest level in the distribution chain. This would be at the refinery or importer level. Because of the numerous uses of fuel, taxing at the refinery is not always practicable. Taxing at the importer level, on the other hand, is realistic. When the product is first received in the state, the tax is imposed. The tax, for example, is imposed when received at the suppliers' terminal or rack. Taxing "upstream" eliminates the opportunities for evasion as the fuel is sold along the distribution chain because *all* fuel entering the state will have tax attached at that time. Legitimate exempt users can file for refunds.

Several states have recently moved their fuel tax collection "upstream". Here are some samples and their reported experience or projections:

Michigan ('93)	21.3% increase in revenue in 6 months.
Indiana ('94)	Anticipates a \$20 million increase in revenue.
Wisconsin ('94)	Anticipates a \$13 million increase in revenue.

Nevada currently taxes fuel at the retail level if the fuel is placed in a motor vehicle, and that is only a recent change. Prior to that change, the end user reported the tax in Nevada. If Nevada would impose the tax upon first import into the State, evasion would be significantly reduced and revenues improved. Added benefits would include a reduced number of taxpayers for simplicity of administration, greater accountability over fuel sales, ease in tracing fuel movements between states and greater control over exempt sales.

In 1993, AB 774 was introduced to move the collection point from the retailer to the distributor. This bill had the support of the Nevada Motor Transport Association, the Nevada Taxpayers Association and the petroleum distributors. The bill unfortunately was introduced too late into the legislative session to receive any action. It would have been a step in the right direction. But now you have the opportunity to recommend moving the collection point all the way "upstream" to the importer level. We will be glad to share our experience in drafting similar bills for other states — none of whom, we must say, were considering a weight-distance tax at the time.

Once you determine Nevada's highway needs, look for administrative simplification and eliminate diversion, this would be a good measure to tighten your tax collection and improve revenues without a tax increase. We feel such a bill would be good legislation for workable taxes.

Thank you for the opportunity to appear and offer our assistance.

**NEVADA DEPARTMENT OF TRANSPORTATION
ROUTINE MAINTENANCE EXPENDITURE COMPARISON*
INTERSTATE SYSTEM**

<u>Critical Element</u>	<u>FY 91 Expended</u>	<u>FY 92 Budgeted</u>	<u>FY 92 Expended</u>
Flexible Pymt & Shoulders (101.01-.10)	\$1,406,027	\$1,078,054	\$1,260,053
Rigid Pymt & Shoulders (111.01-.06)	119,219	118,229	166,534
Roadside (131.06-.10 & 133.01)	679,296	664,275	1,106,919
Drainage (131.01-.05, 141.10 & ½ of 112.01)	205,332	203,226	205,091
Bridges & Tunnels (161.01-.02)	87,193	59,247	91,667
Snow & Ice Control (151.01-.04)	831,432	849,692	630,443
Traffic Control Devices (141.01, .05, .06, .08, & ½ of .09, .11, .12)	978,987	998,214	962,533
Safety Appurtenances (¾ of 112.01, 141.02)	108,712	107,716	157,884
Safety Rest Areas (134.02)	329,798	315,009	390,248
Access Control (135.01, .04)	201,121	200,064	138,133
Critical Element Totals**	\$4,347,137.00	\$4,593,726.00	\$5,109,553.00

*Note: These expenditures are only for the 11 critical elements as designated in FHFM 6-4-3-1.

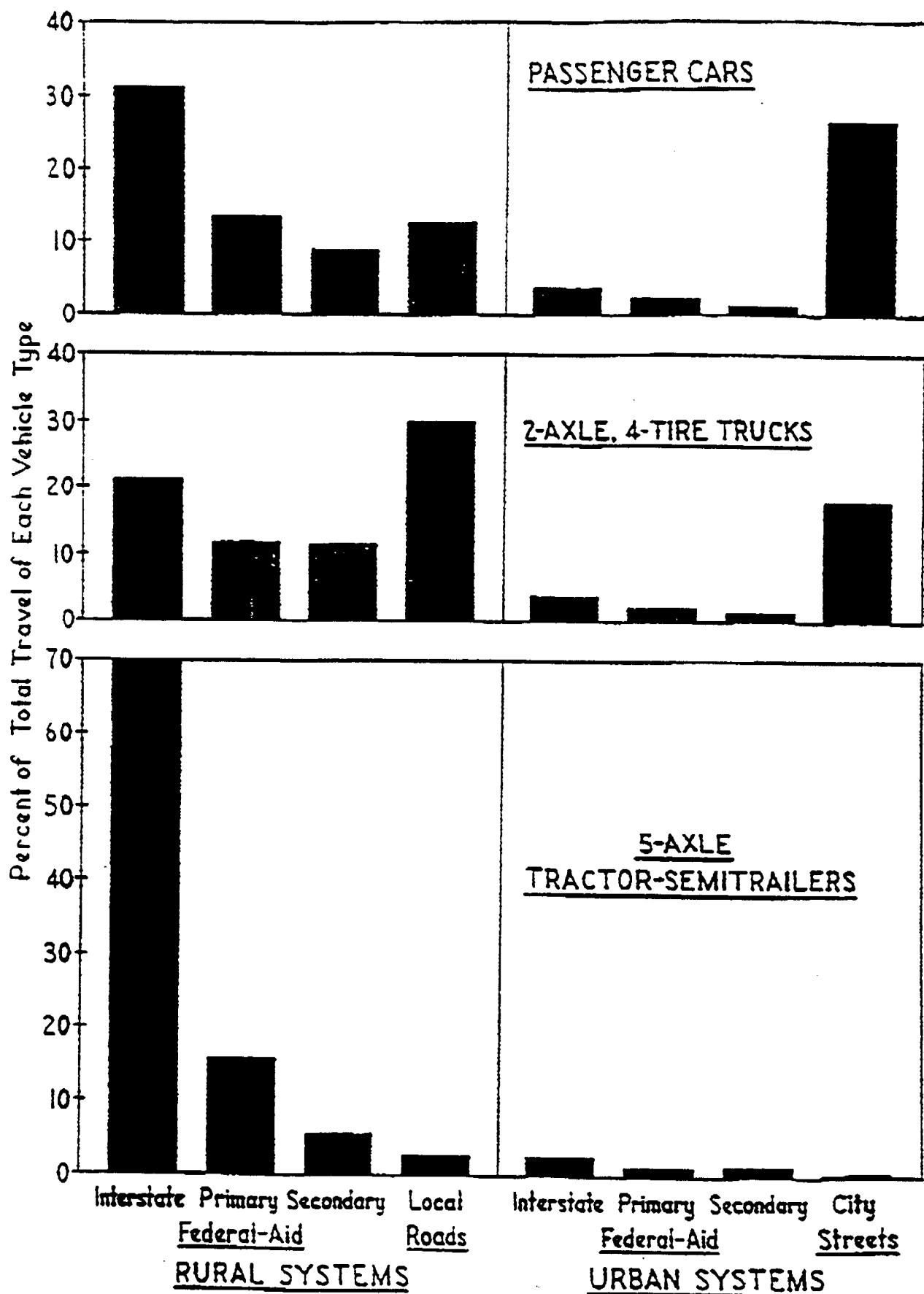
**Note: Traffic Safety in Maintenance Zones are incidental costs to other elements above.

**NEVADA DEPARTMENT OF TRANSPORTATION
ROUTINE MAINTENANCE EXPENDITURE COMPARISON*
ALL SYSTEMS EXCEPT INTERSTATE**

<u>Critical Element</u>	<u>FY 91 Expended</u>	<u>FY 92 Budgeted</u>	<u>FY 92 Expended</u>
Flexible Pymt & Shoulders (101.01-.10)	\$11,224,158	\$9,040,944	\$10,069,064
Rigid Pymt & Shoulders (111.01-.06)	123,916	235,996	168,138
Roadside (131.06-.10 & 133.01)	3,916,341	2,836,760	5,351,774
Drainage (131.01-.05, 141.10 & ½ of 112.01)	1,744,930	1,840,701	1,737,882
Bridges & Tunnels (161.01-.02)	183,916	140,812	223,461
Snow & Ice Control (151.01-.04)	4,406,579	4,522,533	3,843,348
Traffic Control Devices (141.01, .05, .06, .08, & ½ of .09, .11, .12)	4,349,308	3,896,568	4,685,669
Safety Appurtenances (½ of 112.01, 141.02)	223,268	258,991	289,493
Safety Rest Areas (134.02)	376,511	365,739	448,399
Access Control (135.01, .04)	350,558	289,364	311,792
Critical Element Totals**	\$24,899,485.00	\$23,428,408.00	\$27,129,820.00

*Note: These expenditures are only for the 11 critical elements as designated in FHPM 6-4-3-1.

**Note: Traffic Safety in Maintenance Zones are incidental costs to other elements above.



DISTRIBUTION OF TRAVEL BY HIGHWAY SYSTEMS

Warren E. Hoemann

Warren Hoemann is the Vice President of Government Relations for Yellow Corporation in Overland Park, Kansas. Mr. Hoemann is responsible for the overall coordination of the federal and state legislative and political activities of Yellow Corporation and its primary subsidiaries, Yellow Freight System, Inc. and Preston Trucking Company, Inc. Prior to coming to Yellow, Mr. Hoemann was the general counsel for Western Highway Institute in San Bruno, California from 1978 to 1986. At WHI, he frequently served as a counselor to state trucking associations and private attorneys on highway taxation and federal size and weight issues. A past industry member of the Governing Board of the International Registration Plan (IRP), Mr. Hoemann has authored paper on apportioned registration, weight-distance taxes, highway cost allocation and fuel tax reporting.

An attorney, Mr. Hoemann practiced law in Denver, Colorado after receiving his law degree at the University of Colorado School of Law. He was a Phi Beta Kappa graduate of Saint Olaf College in Minnesota and has also studied international law at Cambridge University in England. He and his wife and two children reside in Overland Park, Kansas.

J 3. Robert E. Farris

Testimony of

Robert E. Farris

Before the Interim Legislative Committee on Highway Finance

Transportation needs and their related costs are not just a Nevada problem. Every executive and legislative body, world-wide, is struggling to develop appropriate transportation networks and infrastructure as determined by reasoned planning processes and the revenues to pay for them. This is the challenge for this committee. In the search for additional revenues to fund your system of highways, you are being called upon to determine your true needs and to explore options to pay for them. I am not here today to tell you what to do -- which would not make sense anyway since this is a rightfully a Nevada state issue -- but rather to share some of my experiences that may be of some benefit in your deliberations.

No one likes to pay taxes and motor carriers are no different. But let me make it clear at the outset, motor carriers are more than willing to pay their fair share of the cost for good roads. Good roads that are well maintained are essential to the efficient operation of any fleet of trucks.

In your search for additional revenues, you are also being asked to impose a weight distance tax on the motor carrier industry, a method of taxation the state discarded just four short years ago.

Weight distance taxes have been studied and discussed for years. They simply have not proven to be acceptable to the administering bodies, or the taxpayer. The most recent study by the Federal Highway Administration concerning the "feasibility" of a weight distance tax was conducted during the time that I served as the Federal Highway Administrator. The study was

ordered not by policy decision, but by a political congressional directive. The study did determine that such a tax was "feasible", but also stated that further study would be required before an equitable structure could be developed. No such study has been initiated or called for. The federal government has not recommended such a tax.

At least 18 states, including Nevada, have repealed weight distance taxes. No other state is currently pursuing a weight distance tax. Although planners at other state transportation departments may have weight distance in the back of their minds, no other state is conducting a study on weight distance. No other state, to our knowledge, has claimed inequity of tax payments between intra and interstate carriers, based on weight and distance.

There are those who argue that a weight distance tax is a fair way to charge trucks for the use of the road. While at first glance a weight distance tax may seem fair, closer examination will show it is neither an equitable nor sensible solution.

Weight distance taxes are unfair in a variety of ways. Most of those who promote weight distance taxes do so on the claim that trucks "do not pay their fair share" of highway taxes -- either because the level of truck taxes is not high enough, or because they say the traditional two-structure tax system is inadequate to compensate for the use of the roads.

Neither of these arguments is accurate. The 10 states which have conducted highway cost allocation studies over the past five years have concluded that, on average, heavy trucks are paying 101% of their true share of highway levies. Moreover, all but two of the states conducting these studies rely on the standard system -- registration fees and fuel taxes -- to raise highway monies. The combination of fuel taxes and registration fees for heavy trucks is a perfectly acceptable formula for charging carriers for weight and distance without the headaches, the bureaucracy and evasion of weight distance taxation.

Much of the theoretical appeal of a weight distance tax is that it purports to closely tie the operation of a heavy truck to the road wear it causes. But that is not even achieved. Road wear depends entirely on the weight of a truck's axles. Not its gross weight. Weight distance taxes are imposed according to registered gross weight. Whether or not they are carrying a load. Which leads me to my next point:

The weight distance tax equation is not fair because it does not tax the actual operating weight of a vehicle, it taxes the gross registered weight. Which would be like a carrier telling a customer it will charge for the capacity of the truck, regardless of the shipment size or weight.

Or what about when a truck is running empty? Paying the highest registered tax for supposed-weight considerations makes no sense when a truck or its trailer is empty. For instance, there are hundreds of carrier and companies, which by the sheer nature of their business, run empty half the time. You can't haul milk back in a gasoline tanker. And you can't charge your customers for trips when you're not carrying their goods.

The current system of registration fees and fuel taxes, in combination, however, account for both weight and distance. This two-structure highway tax system has always been the method of choice in highway taxation by the vast majority of states. Clearly, neither of these two taxes alone can account for both weight and distance. They don't pretend to. In combination, however, these two very different types of tax successfully account for both weight and distance traveled. The registration fee has a weight component. Fuel tax is distance sensitive. The greater the weight declared, the higher the registration fee. The heavier the vehicle, the lower the miles-per-gallon, increasing the fuels consumed and therefore, increasing the revenues collected.

**APPENDIX K: Department of Taxation Submittal re:
Costs to Collect Gasoline Tax**

2/10/94

Department of Taxation

Interim Study on Financing Highways

		FY93	FY94	FY95
REVENUE				
HIGHWAY FUND ADMINISTRATIVE FEE		\$445,607	\$788,438	\$795,557
SPECIAL GAS TAX ADMINISTRATIVE FEE		\$173,970	\$210,024	\$229,254
GAS TAX ADMINISTRATIVE FEE		\$188,459	\$228,289	\$228,411
TRANSFER FROM DEPT OF ENVIRONMENTAL PROT.		\$82,856	\$82,410	\$82,410
TOTAL		\$890,892	\$1,309,161	\$1,335,632
DIRECT COSTS				
# 836 TAX EXAMINER		\$42,169	\$42,090	\$42,400
# 307 TAX EXAMINER		\$37,829	\$37,760	\$38,052
# 908 TAX EXAMINER		\$32,096	\$32,081	\$32,351
# 304 TAX EXAMINER		\$39,009	\$32,329	\$32,599
TOTAL DIRECT COSTS		\$151,103	\$144,260	\$145,402
INDIRECT COSTS				
#U4701 EXEC. DIRECTOR	5%	\$4,202	\$4,756	\$4,756
#U4300 DEPUTY EXEC. DIR	5%	\$3,291	\$3,284	\$3,284
#830 ACCT. TECH III	9%	\$4,433	\$4,431	\$4,431
#300 TAX DIV MANAGER	5%	\$3,160	\$3,296	\$3,296
#327 TAX ADMINISTRATOR	30%	\$15,393	\$15,384	\$15,384
REVENUE ACCOUNTING SECTION	5%	\$11,103	\$11,334	\$11,627
TELEPHONE SYSTEM OP.	5%	\$2,364	\$2,364	\$2,388
MAIL ROOM	5%	\$3,009	\$2,969	\$2,969
#533 PERSONNEL ANALYST	2.5%	\$856	\$1,732	\$1,732
#106 INTERNAL AUDITOR	2.5%	\$1,283	\$1,335	\$1,335
#112 MANAGEMENT ASSISTANT III	2.5%	\$926	\$925	\$925
#297 WORD PROCESSING	2.5%	\$926	\$925	\$925
LOCAL GOVERNMENT	2%	\$2,278	\$2,316	\$2,316
FIELD AUDIT FUNCTION	2%	\$26,861	\$53,722	\$53,722
TOTAL INDIRECT COSTS		\$80,085	\$108,773	\$109,090
ALLOCATION OF COSTS OTHER THAN PAYROLL		13.31%	13.97%	14.42%
TRAVEL		\$15,291	\$23,337	\$25,865
OPERATING		\$153,839	\$149,020	\$155,065
EQUIPMENT		\$1,589	\$5,383	\$938
TRAINING		\$301	\$695	\$574
COST ALLOCATION			\$11,621	\$11,995
TOTAL ALLOCATED COSTS		\$171,020	\$190,056	\$194,437

APPENDIX L: Recommended Legislation

BDR 58-367-- Revises taxation of motor carriers.

SUMMARY--Revises taxation of motor carriers. (BDR 58-367)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to motor carriers; imposing a mileage fee upon certain motor carriers; providing exemptions from taxes on motor vehicle fuel and special fuel; providing that a special fuel user's license is not required of certain operators of motor vehicles; decreasing the registration fees of certain vehicles; providing a penalty; and providing other matters properly relating thereto.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. *Identifying devices must be provided by the department and delivered to the applicants. The reasonable cost of the devices must be borne by the state and paid out of the state highway fund upon claims therefor allowed as other claims against the state.*

2. Identifying devices assigned to vehicles must be displayed during the current licensing year, pursuant to such regulations as the department may prescribe.

3. The department may, by regulation, permit the transfer of an identifying device from one vehicle to another by the operator of the vehicle or the transfer of identifying devices between operators.

Sec. 3. 1. A common, contract or private motor carrier which operates in this state any motor vehicle specified in subsection 2 shall pay to the department a mileage fee for all miles traveled by the motor vehicle within this state during the statutory licensing period.

2. If the motor vehicle has a declared gross weight of:

(a) Not less than 26,001 pounds and not more than 30,000 pounds, the fee is 3.8 cents per mile.

(b) Not less than 30,001 pounds and not more than 40,000 pounds, the fee is 4.3 cents per mile.

(c) Not less than 40,001 pounds and not more than 50,000 pounds, the fee is 5 cents per mile.

(d) Not less than 50,001 pounds and not more than 60,000 pounds, the fee is 5.9 cents per mile.

(e) Not less than 60,001 pounds and not more than 70,000 pounds, the fee is 7 cents per mile.

(f) Not less than 70,001 pounds and not more than 80,000 pounds, the fee is 8.2 cents per mile.

Sec. 4. 1. The mileage fee for mileage traveled during a calendar quarter is due on the last day of the month next following the quarter to which it relates.

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. A payment shall be deemed received on the date shown by the post office cancellation mark stamped on an envelope containing a payment properly addressed to the department.

Sec. 5. 1. On or before the last day of January, April, July and October of each year, each person who is required to pay a mileage fee shall file a quarterly return for the preceding quarter with the department. The return must be filed on a form prescribed by the department and must be filed regardless of the amount of the fee due.

2. The return must include the information reasonably required by the department for the administration and enforcement of this chapter.

3. If a fee is due, a remittance must accompany the return in the amount due.

4. A person who fails to pay a fee on the dates provided in this section shall pay a penalty of 10 percent of the amount of the unpaid fee or \$50, whichever is greater, plus interest on the amount of the unpaid fee at the rate of 1 percent per month or fraction of a month from the date the fee is due until the date of payment.

5. A tax return or quarterly report is considered delinquent when it has not been received by the department by the due date of the tax return or quarterly report as prescribed by this chapter. A tax return or quarterly report shall be deemed received on the date shown on the post office cancellation mark stamped on an envelope containing the tax return or quarterly report, properly addressed to the department, if that date is earlier than the date of actual receipt.

Sec. 6. *If the obligation of a person to pay a mileage fee in this state ceases because he has sold, transferred or otherwise terminated his business, he shall:*

1. Notify the department in writing of the effective date of the sale, transfer or other termination of his business and the name and address of the purchaser or other person who will be responsible for the business.

2. Return to the department any identification issued to him.

3. File a quarterly tax return and pay all taxes, interest and penalties owed pursuant to section 5 of this act. The tax return and payment are due on or before the last day of the month next following the sale, transfer or other termination of the business.

Sec. 7. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.013 to 706.791, inclusive, *and sections 2 to 6, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 706.813 is hereby amended to read as follows:

706.813 The provisions of NRS 706.801 to 706.861, inclusive, do not apply to:

1. Vehicles which are exempt from special fuel tax requirements under NRS 366.221 [.] , except those vehicles subject to a mileage fee pursuant to section 3 of this act.

2. Vehicles having a declared gross weight of 26,000 pounds or less, except that such vehicles are eligible for apportionment [under] pursuant to the provisions of this chapter upon application by the operator.

Sec. 9. NRS 365.220 is hereby amended to read as follows:

365.220 The provisions of this chapter requiring the payment of excise taxes do not apply to any of the following:

1. Motor vehicle fuel so long as it remains in interstate or foreign commerce.

2. Motor vehicle fuel or fuel for jet or turbine-powered aircraft exported from this state by a dealer.

3. Motor vehicle fuel or fuel for jet or turbine-powered aircraft sold to the United States Government for official use of the United States Armed Forces.

4. Motor vehicle fuel or fuel for jet or turbine-powered aircraft distributed, or delivered on the order of the owner, to a dealer who has furnished security in the amount prescribed in NRS 365.290 and who has established to the satisfaction of the department that the security is sufficient to ensure payment of all excise taxes as they may become due to the state from him under this chapter. Every dealer who claims an exemption shall report the distributions to the department in such detail as the department may require; otherwise, the exemption granted in this subsection is void and all fuel is considered distributed in this state subject fully to the provisions of this chapter.

5. *Motor vehicle fuel used by vehicles subject to a mileage fee pursuant to section 3 of this act.*

Sec. 10. NRS 366.200 is hereby amended to read as follows:

366.200 1. The sale or use of special fuel for any purpose other than to propel a motor vehicle upon the public highways of Nevada is exempt from the application of the tax imposed by NRS 366.190. The exemption provided

in this subsection applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the department that the special fuel purchased or used was used for purposes other than to propel a motor vehicle upon the public highways of Nevada.

2. Sales made to the United States Government or any instrumentality thereof are exempt from the tax imposed by this chapter.

3. Sales made to any state, county, municipality, district or other political subdivision thereof are exempt from the tax imposed by this chapter.

4. Sales made to any person to be used to propel a bus which is a part of a system which:

(a) Operates buses on regular routes and fixed schedules in an urban area;

(b) Transports persons who pay the established fare; and

(c) Uses public money to operate the system or acquire new equipment,

are exempted from the tax imposed by this chapter.

5. Sales made to operators of vehicles which are subject to a mileage fee pursuant to section 3 of this act are exempt from the tax imposed by this chapter.

Sec. 11. NRS 366.205 is hereby amended to read as follows:

366.205 A special fuel dealer shall not collect the special fuel tax from a person exempt from the tax pursuant to [subsection 2, 3 or 4] *subsections 2 to 5, inclusive*, of NRS 366.200.

Sec. 12. NRS 366.221 is hereby amended to read as follows:

366.221 1. Except as otherwise provided in subsection 2, no special fuel user's license may be required of the following classes of special fuel users:

(a) Operators of motor vehicles who make occasional trips into this state for service or repair.

(b) Operators of house coaches as defined in NRS 484.067.

(c) Operators of motor vehicles having a declared gross weight of 26,000 pounds or less.

(d) Operators of unladen motor vehicles purchased in this state for the trip from the point of delivery to the state boundary.

(e) Operators of motor vehicles who make occasional trips into or across this state for nonprofit or eleemosynary purposes.

(f) Operators of motor vehicles used in the production of motion pictures, including films to be shown in theaters and on television, industrial, training and educational films, commercials for television and video discs and tapes.

(g) Private motor carriers of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(h) A private motor carrier of property which is used to attend livestock shows or sales.

(i) *Operators of motor vehicles which are subject to a mileage fee pursuant to NRS 706.521 or section 3 of this act.*

2. A person otherwise exempt pursuant to subsection 1 who does not purchase special fuel in this state in an amount commensurate with his consumption of special fuel in the propulsion of motor vehicles on the highways of this state shall secure a special fuel user's license.

3. As used in this section, "private motor carrier of property" has the meaning ascribed to it in NRS 706.111.

Sec. 13. NRS 482.482 is hereby amended to read as follows:

482.482 1. In addition to any other applicable fee listed in NRS 482.480 there must be paid to the department for the registration of every motortruck, truck tractor or bus which has a declared gross weight of:

(a) Less than 6,000 pounds, a fee of \$33.

(b) Not less than 6,000 pounds and not more than 8,499 pounds, a fee of \$38.

(c) Not less than 8,500 pounds and not more than 10,000 pounds, a fee of \$48.

(d) Not less than 10,001 pounds and not more than 26,000 pounds, a fee of \$12 for each 1,000 pounds or fraction thereof.

(e) Not less than 26,001 pounds and not more than 80,000 pounds, a fee of \$17 for each 1,000 pounds or fraction thereof. The maximum fee is \$1,360.]
\$12.

2. The registration fees for fleets of vehicles with a declared gross weight in excess of 26,000 pounds and the tax imposed by the provisions of chapter 371 of NRS for the privilege of operating those vehicles may be paid in equal installments. Except for the first installment, which must be paid at the time of registration, installments are due on or before April 1, July 1 and October 1 of each year. The amount of each installment must be determined by taking the total fee and privilege tax due for the calendar year and dividing that amount

by the sum of the total number of installments for that calendar year due after the date of registration plus one.

3. If the due date of any installment falls on a Saturday, Sunday or legal holiday, that installment is not due until the next following business day.

4. Any payment required by subsection 2 shall be deemed received by the department on the date shown by the post office cancellation mark stamped on an envelope containing payment properly addressed to the department, if that date is earlier than the actual receipt of that payment.

5. A person who fails to pay any fee pursuant to subsection 2 or privilege tax when due shall pay to the department a penalty of 10 percent of the amount of the unpaid fee, plus interest on the unpaid fee at the rate of 1 percent per month or fraction of a month from the date the fee and tax were due until the date of payment.

BDR 32-368-- Revises provisions relating to imposition and collection of tax on special fuel.

SUMMARY--Revises provisions relating to imposition and collection of tax on special fuel. (BDR 32-368)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to the tax on special fuel; requiring special fuel suppliers to collect the tax on special fuel from purchasers at the terminal rack; and providing other matters properly relating thereto.

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

Section 1. Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *"Rack" means a deck, platform or open bay which consists of a series of metered pipes and hoses for delivering special fuel from a refinery or terminal into a motor vehicle, rail car or vessel.*

Sec. 3. *"Terminal" means a facility for the storage of special fuel which is supplied by a motor vehicle, pipeline or vessel and from which special fuel is removed for distribution at a rack.*

Sec. 4. 1. *Except as otherwise provided in subsection 2, a person shall not import, sell, distribute, use or store special fuel in this state to which dye has not*

been added pursuant to section 5 of this act or for which the tax imposed pursuant to NRS 366.190 has not been paid.

2. A special fuel supplier may import or store special fuel which has not been dyed and for which the tax imposed pursuant to NRS 366.190 has not been paid.

Sec. 5. 1. Special fuel which is exempt from the tax pursuant to subsection 1 of NRS 366.200 must be dyed before it is removed for distribution from a rack. The dye added to the exempt special fuel must be of the color and concentration required by the department. The department shall adopt regulations setting forth the requirements for adding dye to special fuel pursuant to this section.

2. Except as otherwise provided in subsections 2, 3 and 4 of NRS 366.200, a person shall not operate or maintain on any highway in this state a motor vehicle which contains in the fuel tank of that vehicle special fuel which has been dyed.

3. There is a rebuttable presumption that all special fuel which has not been dyed and which is sold or distributed in this state is for the purpose of propelling a motor vehicle.

Sec. 6. 1. Except as otherwise provided in subsection 2, each special fuel supplier who sells or distributes special fuel to which dye has not been added shall, at the time the special fuel is purchased, collect the tax imposed pursuant to NRS 366.190.

2. A special fuel supplier shall not, at the time the special fuel is purchased, collect the tax imposed pursuant to NRS 366.190 if the purchaser of the special fuel:

(a) Has been issued a permit by the department pursuant to section 8 of this act; and

(b) Elects to defer payment of the tax.

3. A person who has paid the tax on special fuel and is exempt from payment of the tax pursuant to NRS 366.200 may apply to the department for a refund in the manner prescribed in subsection 6 of NRS 366.650.

Sec. 7. Each special fuel supplier shall, not later than the last day of each month:

1. Submit to the department a tax return which sets forth:

(a) The number of gallons of special fuel he received during the previous month;

(b) The number of gallons of special fuel he sold, distributed or used in this state during the previous month; and

(c) The number of gallons of special fuel he sold, distributed or used in this state in which dye was added during the previous month.

2. Pay to the department the tax imposed pursuant to NRS 366.190 on all special fuel sold, distributed or used during the previous month for which dye was not added in the manner prescribed in this chapter.

Sec. 8. 1. A purchaser of special fuel who wishes to defer payment of the tax imposed pursuant to NRS 366.190 to the special fuel supplier until the date the special fuel supplier is required to pay the tax to the department must apply for a permit to defer payment of the tax.

2. The department may require an applicant for a permit to defer payment of the tax imposed pursuant to NRS 366.190 to provide a bond executed by him as

principal, and by a corporation qualified pursuant to the laws of this state as surety, payable to this state. The bond must indemnify the department against any deduction claimed pursuant to subsection 2 of NRS 366.540 by a special fuel supplier because of the principal's failure to pay the tax as required by this chapter.

3. If a purchaser fails to make a payment to a special fuel supplier as required by this section, the department may:

- (a) Revoke the purchaser's permit;*
- (b) If the purchaser was required to provide a bond pursuant to subsection 2, require the purchaser to increase the amount of the bond; or*
- (c) Take any other action to ensure that the tax imposed pursuant to NRS 366.190 is paid.*

4. The department shall notify each special fuel supplier in this state when it revokes a permit issued pursuant to this section.

5. The department shall adopt regulations to carry out the provisions of this section.

Sec. 9. 1. *Each special fuel supplier shall prepare and provide a record of shipment to each person who purchases at least 5,200 gallons of special fuel and transports the special fuel from the place of purchase. The record of shipment must include the:*

- (a) Place where the special fuel was purchased;*
- (b) Place to which the special fuel will be transported;*
- (c) Number of gallons of special fuel transported;*
- (d) Color and concentration of the dye added to the special fuel, if any; and*

(e) Name and address of the purchaser of the special fuel.

2. Each person who transports special fuel in this state shall keep the record of shipment required by subsection 1 in the vehicle in which the special fuel is transported until the special fuel is delivered to the purchaser.

Sec. 10. NRS 366.020 is hereby amended to read as follows:

366.020 [Except where] *As used in this chapter, unless the context otherwise requires, the [definitions given in this chapter govern the construction of this chapter.] words and terms defined in NRS 366.025 to 366.100, inclusive, and sections 2 and 3 of this act, have the meanings ascribed to them in those sections.*

Sec. 11. NRS 366.070 is hereby amended to read as follows:

366.070 "Special fuel [dealer" means any person in the business of handling special fuel who delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him. For this purpose the term "fuel supply tank or tanks" does not include cargo tanks even though fuel is withdrawn directly therefrom for propulsion of the vehicle.] *supplier" means a person who:*

1. Imports or acquires immediately upon importation into this state special fuel from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this state;

2. Produces, manufactures or refines special fuel in this state and sells or distributes it in this state; or

3. Otherwise acquires for distribution in this state special fuel with respect to which there has been no previous taxable sale or use.

Sec. 12. NRS 366.100 is hereby amended to read as follows:

366.100 "Use" means [either the receipt, delivery or placing of special fuels by a special fuel dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while such vehicle is within this state, or] the consumption by a special fuel user of special fuels in propulsion of a motor vehicle on the highways of this state.

Sec. 13. NRS 366.140 is hereby amended to read as follows:

366.140 1. Every special fuel [dealer,] *supplier*, special fuel user and every person [importing, manufacturing, refining, dealing in,] transporting or storing special fuel in this state shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the department requires.

2. These records, receipts, invoices and other pertinent papers must be preserved intact for 36 months.

3. Any special fuel [dealer] *supplier* or special fuel user who:

(a) Fails to file the returns required pursuant to this chapter; or

(b) Files the returns required pursuant to this chapter and indicates that no taxable fuel was [delivered] *sold, distributed* or used or that he conducted no taxable operation,

shall keep the records required by this section for 7 years after their making or until the department gives him written authorization to destroy the records.

4. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the department or its authorized agents.

Sec. 14. NRS 366.150 is hereby amended to read as follows:

366.150 1. The department or its [duly] authorized agents [are empowered:

(a) To examine] *may*:

(a) *Examine* the books, papers, records and equipment of any special fuel [dealer,] *supplier*, special fuel user or person [dealing in,] transporting or storing special fuel as defined in NRS 366.060; and

(b) [To investigate] *Investigate* the character of the disposition which any person makes of [such] *that* fuel, [in order to ascertain and] *to* determine whether all excise taxes due [under] *pursuant to* this chapter are being properly reported and paid.

2. The fact that such books, papers, records and equipment are not maintained in this state at the time of demand shall not cause the department to lose any right of examination [under] *pursuant to* this chapter when and where [such] *those* books, papers, records and equipment become available.

Sec. 15. NRS 366.160 is hereby amended to read as follows:

366.160 1. All records of mileage operated, origin and destination points within this state, equipment operated in this state, gallons or cubic feet consumed, and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel [dealer] *supplier* or special fuel user, and any information obtained by an investigation of the records and equipment of any special fuel [dealer] *supplier* or special fuel user, shall be deemed confidential and must not be revealed [in whole or in part to

anyone except in the necessary administration of] *to any person except as necessary to administer* this chapter or as otherwise provided by law.

Sec. 16. NRS 366.170 is hereby amended to read as follows:

366.170 The department may, upon request from officials to whom is entrusted the enforcement of the special fuel tax law of any other state, the District of Columbia, the United States, its territories and possessions, forward to [such] *those* officials any information which it may have relative to the receipt, storage, delivery, sale, use or other disposition of special fuel by any special fuel [dealer] *supplier* or special fuel user, [provided] *if*, such other state, district, territory [and] *or* possession furnishes [like] *similar* information to this state.

Sec. 17. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter, it is unlawful for any special fuel [dealer] *supplier* or special fuel user to sell or use special fuel within this state unless the special fuel [dealer] *supplier* or special fuel user is the holder of a special fuel [dealer's] *supplier's* or special fuel user's license issued to him by the department.

2. The department may adopt regulations relating to the issuance of any special fuel [dealer's] *supplier's* or special fuel user's license and the collection of fees therefor.

Sec. 18. NRS 366.240 is hereby amended to read as follows:

366.240 1. The department shall:

(a) Upon receipt of the application and bond in proper form, issue to the applicant a special fuel [dealer's] *supplier's* license.

(b) Upon receipt of the application in proper form, issue to the applicant a special fuel user's license.

2. The department may refuse to issue a special fuel [dealer's] *supplier's* license or special fuel user's license to any person:

(a) Who formerly held a special fuel [dealer's] *supplier's* license which, before the time of filing the application, has been revoked for cause;

(b) Who applies as a subterfuge for the real party in interest whose license, before the time of filing the application, has been revoked for cause;

(c) Who, if he is a special fuel [dealer,] *supplier*, neglects or refuses to furnish a bond as required by this chapter; or

(d) Upon other sufficient cause being shown.

Sec. 19. NRS 366.250 is hereby amended to read as follows:

366.250 Any applicant whose application for a special fuel [dealer's] *supplier's* license or special fuel user's license has been denied may petition the department for a hearing. The department shall:

1. Grant the applicant a hearing.

2. [Give him at least 10 days'] *Provide to the person, not less than 10 days before the hearing*, written notice of the time and place of the hearing.

Sec. 20. NRS 366.260 is hereby amended to read as follows:

366.260 1. Each special fuel [dealer's] *supplier's* license is valid until suspended or revoked for cause or otherwise canceled.

2. Each special fuel user's license is valid for the calendar year unless suspended or revoked for cause or otherwise canceled.

3. [No special fuel dealer's license or special fuel user's license is transferable.] *The license of a special fuel supplier or special fuel user is not transferable.*

Sec. 21. NRS 366.270 is hereby amended to read as follows:

366.270 Whenever any person ceases to be a special fuel [dealer] *supplier* or special fuel user within the state by reason of discontinuance, sale or transfer of his business, he shall:

1. Notify the department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of discontinuance and, in the event of a sale, the date thereof and the name and address of the purchaser or transferee.

2. Surrender to the department the license [certificate] issued to him by the department.

3. If he is a special fuel user, file a quarterly tax return and pay all taxes, interest and penalties pursuant to NRS 366.370 and 366.380, except that both the filing and payment are due on or before the last day of the month following the month of discontinuance, sale or transfer of the business.

4. If he is a special fuel [dealer,] *supplier*, file a monthly tax return and pay all taxes, interest and penalties pursuant to NRS 366.370 and [366.385] *section 7 of this act* on or before the last day of the month following the month of discontinuance, sale or transfer of the business.

Sec. 22. NRS 366.350 is hereby amended to read as follows:

366.350 1. The department may revoke the license of any special fuel [dealer] *supplier* or special fuel user for reasonable cause.

2. Before revoking a license, the department shall send a notice by registered or certified mail to the licensee at his last known address ordering him to appear before the department at a time not less than 10 days after the mailing of [such] *the* notice and show cause why the license should not be revoked.

Sec. 23. NRS 366.360 is hereby amended to read as follows:

366.360 1. The department shall cancel any license to act as a special fuel [dealer] *supplier* or a special fuel user immediately upon the surrender thereof by the holder.

2. If a surety has lodged with the department a written request to be released and discharged of liability, the department shall immediately notify the special fuel [dealer] *supplier* who furnished the bond, and unless he files a new bond as required by the department within 30 days or makes a deposit in lieu thereof as provided in NRS 366.550, the department may cancel his license.

3. If a special fuel [dealer] *supplier* becomes delinquent in the payment of excise taxes as prescribed by this chapter to the extent that his liability exceeds the total amount of bond furnished by him, the department may cancel his license immediately.

Sec. 24. NRS 366.370 is hereby amended to read as follows:

366.370 1. Except as otherwise provided in subsection 4, the excise tax imposed by this chapter with respect to the use or sale of special fuel during any calendar quarter is due on or before the last day of the first month following the quarterly period to which it relates.

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be [considered] *deemed* received on the date shown by the post office cancellation mark stamped upon an envelope containing payment properly addressed to the department.

4. A special fuel [dealer] *supplier* shall pay the tax imposed by this chapter at the time he files his monthly tax return pursuant to [NRS 366.385.] *section 7 of this act.*

Sec. 25. NRS 366.390 is hereby amended to read as follows:

366.390 1. The department shall allow each [dealer] *special fuel supplier* to retain an amount equal to 2 percent of the amount of the tax collected by [such dealer] *the special fuel supplier* as a fee for making [such] *the* collection.

2. *If the special fuel for which the tax was collected by the special fuel supplier is sold to a purchaser who has been issued a permit pursuant to section 8 of this act, the special fuel supplier:*

(a) Is entitled to retain one-third of the fee; and

(b) Shall distribute two-thirds of the fee to the purchaser. If the fuel is resold by that purchaser to another purchaser who has been issued a permit pursuant to section 8 of this act, the purchaser who sells the special fuel to the subsequent purchaser shall distribute to that subsequent purchaser one-half of the fee he received from the special fuel supplier.

Sec. 26. NRS 366.395 is hereby amended to read as follows:

366.395 1. Any person who fails to pay any excise tax, except taxes assessed pursuant to the provisions of NRS 366.405, within the time prescribed

by this chapter shall pay in addition to the tax a penalty of 10 percent of the amount thereof, plus interest on the amount of the tax at the rate of 1 percent per month or fraction thereof, from the date the tax became finally due until the date of payment.

2. Any person who fails to submit a quarterly or monthly tax return as required by the provisions of NRS 366.380 or [366.385,] *section 7 of this act*, respectively, shall pay a penalty of \$50 for each delinquent tax return, in addition to any other penalty provided by the provisions of this chapter.

3. A tax return is considered delinquent when it has not been received by the department by the date the tax return is due, as prescribed by the provisions of this chapter.

Sec. 27. NRS 366.405 is hereby amended to read as follows:

366.405 1. If the department is not satisfied with the records or statements of, or with the amount of tax paid by, any person pursuant to the provisions of this chapter, it may make an additional or estimated assessment of tax due from that person based upon any information available to it. Every additional or estimated assessment bears interest at the rate of 2 percent per month, or fraction thereof, from the date the additional assessment is imposed until paid.

2. If any part of a deficiency for which an additional assessment is imposed is found to be caused by negligence or intentional disregard of the provisions of this chapter or the regulations of the department adopted pursuant to those provisions, a penalty of 10 percent of the amount of the additional assessment must be added thereto. If any part of the deficiency is found to be caused by fraud or an intent to evade the provisions of this chapter or the regulations

adopted pursuant to those provisions, a penalty of 25 percent of the amount of the additional assessment must be added thereto.

3. The department shall give the person written notice of the additional assessment. The notice may be served personally or by mail in the manner prescribed by Rule 5 of the Nevada Rules of Civil Procedure addressed to the person at his address as it appears in the records of the department. Except for reports filed pursuant to subsection 3 of NRS 366.140, every notice of additional assessment proposed to be assessed pursuant to the provisions of this chapter must be served within 36 months after the claimed erroneous report was filed.

4. If a special fuel user or special fuel [dealer] *supplier* refuses or fails to make available to the department, upon request, such records, reports or other information as determined by the department to be necessary to enable it to determine that the amount of tax paid by the user or [dealer] *supplier* is correct, the additional or estimated assessment made pursuant to the provisions of this section is presumed to be correct and the burden is upon the person challenging the assessment to establish that it is erroneous.

5. Any person against whom an assessment has been made pursuant to the provisions of this section may petition the department in writing for a redetermination within 30 days after service of the notice. If a petition is not filed with the department within that period, the assessment becomes final.

6. If a petition for redetermination is filed within 30 days, the department shall reconsider the assessment and send the petitioner, by certified mail, notice of its decision and the reasons therefor. A petitioner aggrieved by the

department's decision may appeal the decision by submitting a written request to the department for [such] a hearing not later than 30 days after notice of the decision was mailed by the department. The department shall schedule an administrative hearing and provide *to the petitioner [with 10 days'] , not less than 10 days before the hearing*, notice of the time and place of the hearing. The department may continue the hearing as [may be] *it deems* necessary.

7. The order of the department upon a petition becomes final 30 days after service of notice thereof. If any additional assessment is not paid on or before the date it becomes final, there must be added thereto in addition to any other penalty provided for in this chapter a penalty of 10 percent of the amount of the additional assessment.

Sec. 28. NRS 366.540 is hereby amended to read as follows:

366.540 1. The tax provided for by this chapter must be paid by special fuel [dealers] *suppliers* and special fuel users. A special fuel [dealer shall remit] *supplier shall pay to the department* the excise tax he collects from *purchasers of* special fuel [users] with the monthly return filed pursuant to [NRS 366.385.] *section 7 of this act*. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in this chapter by *the difference between the number of gallons purchased by the special fuel user and the* number of gallons of special fuel consumed by him in the propulsion of motor vehicles on the highways of this state . [, then subtracting the amount of tax paid to special fuel dealers.]

2. *In computing the amount of tax on special fuel a special fuel supplier owes to the department, the special fuel supplier may deduct from the amount*

due pursuant to subsection 1 any amount which is due but has not been paid by a purchaser who is authorized by the department to defer payment of the tax pursuant to section 8 of this act. If such a deduction is claimed, the claim must identify the purchaser and the amount of taxes that he failed to pay.

Sec. 29. NRS 366.550 is hereby amended to read as follows:

366.550 1. An applicant for or holder of a special fuel [dealer's] *supplier's* license shall provide a bond executed by him as principal, and by a corporation qualified [under] *pursuant to* the laws of this state as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all of the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due to the State of Nevada. The total amount of the bond or bonds of any holder of a special fuel [dealer's] *supplier's* license must be fixed by the department at not less than three times the estimated maximum monthly tax, determined in such a manner as the department deems proper, but the amount must not be less than \$1,000. If the department determines that a person is habitually delinquent in the payment of amounts due to the department, it may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of \$100.

2. No recovery on any bond, nor the execution of any new bond, nor the suspension or revocation of any special fuel [dealer's] *supplier's* license affects the validity of any bond.

3. In lieu of a bond or bonds an applicant for or holder of a special fuel [dealer's] *supplier's* license may deposit with the state treasurer, under such terms as the department may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the department.

4. If the holder of a special fuel [dealer's] *supplier's* license is required to provide a bond of more than \$5,000, the department may reduce the requirements for the bond to not less than \$5,000 upon the [dealer's] *supplier's* faithful performance of all the requirements of this chapter and the punctual payment of all taxes due the State of Nevada for the 3 preceding calendar years.

5. The department shall immediately reinstate the original requirements for a bond for a holder of a special fuel [dealer's] *supplier's* license upon his:

- (a) Lack of faithful performance of the requirements of this chapter; or
- (b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

Sec. 30. NRS 366.560 is hereby amended to read as follows:

366.560 Whenever any special fuel user or special fuel [dealer shall be] *supplier is* delinquent in the payment of any obligation imposed [under] *pursuant to* this chapter, the department may transmit notice of [such] *the* delinquency to the attorney general or the district attorney of the proper county, who shall proceed at once, by appropriate legal action, to collect all

[sums] *money* due the state from [such] *the* special fuel user or special fuel [dealer.] *supplier*.

Sec. 31. NRS 366.650 is hereby amended to read as follows:

366.650 1. If illegally or through error the department collects or receives any excise tax, penalty or interest imposed [under] *pursuant to* this chapter, the excise tax, penalty or interest must be refunded to the person who paid the tax, penalty or interest. Except as otherwise provided in NRS 360.235, a written application for refund, stating the specific grounds therefor, must be made within 36 months after the date of payment, whether or not the excise tax, penalty or interest was paid voluntarily or under protest.

2. Refunds must be made to a successor, assignee, estate or heir of the person if written application is made within the time limit.

3. Any amount determined to be refundable by the department must be refunded or credited to any amounts then due from the special fuel [dealer.] *supplier*.

4. All amounts refunded [under] *pursuant to* the provisions of this chapter must be paid from the state highway fund on claims presented by the department, approved by the state board of examiners, and allowed and paid as other claims against the state are allowed and paid.

5. Licensed special fuel users operating interstate who can prove to the satisfaction of the department that their special fuel purchases in Nevada exceed their use over the highways of this state for a certain quarter must apply credit to any excise taxes, penalties or interest required by this chapter

or fees, taxes, penalties or interest applicable pursuant to chapter 706 of NRS and any balance may be refunded or credited to succeeding reports.

6. *Any person who establishes to the satisfaction of the department that the special fuel purchased in this state was used for a purpose which is exempt from the tax on special fuel pursuant to NRS 366.200 is entitled to receive from the department a refund in an amount equal to the tax paid by that person when he purchased the special fuel.*

Sec. 32. NRS 366.660 is hereby amended to read as follows:

366.660 1. No injunction, writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this state or any officer thereof to prevent or enjoin the collection [under] *pursuant to* this chapter of any excise tax or other amount required to be collected.

2. After payment of any such excise tax or other amount under protest, [duly] verified and setting forth the grounds of objection to the legality thereof, filed with the department at the time of payment of the tax or other amount protested, the special fuel [dealer] *supplier* or special fuel user making the payment may bring an action against the state treasurer in the district court in and for Carson City for the recovery of the amount so paid under protest.

Sec. 33. NRS 366.715 is hereby amended to read as follows:

366.715 1. The department may seal [a special fuel pump if:

(a) A licensed special fuel dealer becomes] *the metered pipes and hoses of a rack if a special fuel supplier:*

(a) *Becomes* delinquent in payment of any amount due pursuant to the provisions of this chapter;

(b) [A special fuel dealer operates] *Operates* without the license required by the provisions of this chapter; or

(c) [A special fuel dealer is operating] *Operates* without the bond or cash deposit required by the provisions of this chapter.

2. The [pumps] *metered pipes and hoses of the rack* may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.

3. Before sealing [a pump,] *the metered pipes and hoses of a rack*, the department must send a notice by registered or certified mail to the licensed special fuel [dealer] *supplier* at his last known address ordering him to appear before the department at a time not less than 10 days after the mailing of the notice and show cause why the [pump] *metered pipes and hoses of the rack* should not be sealed.

Sec. 34. NRS 366.720 is hereby amended to read as follows:

366.720 Any person who [shall:

1. Fail or refuse] :

1. *Fails or refuses* to pay the tax imposed by this chapter;

2. [Engage] *Engages* in business in this state as a special fuel user or special fuel [dealer] *supplier* without being the holder of [an uncanceled] *a* license to engage in [such] *that* business;

3. [Operate a motor vehicle which requires special fuel upon the highways of this state without a valid special fuel vehicle permit;

4. Fail] *Fails* to make any of the reports required by this chapter;

[5. Make]

4. *Makes* any false statement in any application, report or statement required by this chapter;

[6. Refuse]

5. *Refuses* to permit the department or any [duly] authorized agent to examine records as provided by this chapter;

[7. Fail]

6. *Fails* to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this state as required by this chapter; or

[8. Make]

7. *Makes* any false statement in connection with an application for the refund of any [moneys] *money* or taxes provided in this chapter, [shall be] *is* guilty of a misdemeanor.

Sec. 35. NRS 366.205, 366.290 and 366.385 are hereby repealed.

Sec. 36. Any person, other than a special fuel supplier, who has title to special fuel which is held in storage on January 1, 1996, and for which the tax required by NRS 366.190 has not been paid, shall, not later than February 1, 1996, pay to the department of motor vehicles and public safety the tax due on the special fuel held in storage on January 1, 1996. The payment of the tax must be accompanied by a statement which sets forth the number of gallons of special fuel which the person held in storage on January 1, 1996.

Sec. 37. This act becomes effective upon passage and approval, for the purpose of adopting the regulations necessary to carry out the provisions of this act and on January 1, 1996, for all other purposes.

TEXT OF REPEALED SECTIONS

366.205 Special fuel dealer not to collect tax on certain exempt sales. A special fuel dealer shall not collect the special fuel tax from a person exempt from the tax pursuant to subsection 2, 3 or 4 of NRS 366.200.

366.290 Application for special fuel dealer's license. Every seller of special fuels, as defined in this chapter, must, prior to engaging in the business as a seller of special fuels for the propulsion of motor vehicles, apply to the department on a form prescribed by the department for a special fuel dealer's license.

366.385 Monthly return to be filed by special fuel dealer; remittance of tax.

1. On or before the last day of each month, a special fuel dealer shall file with the department a tax return for the preceding month, regardless of the amount of tax he collected, on a form prescribed by the department.

2. A monthly return must show such information as the department requires for the proper administration and enforcement of this chapter. The return must be accompanied by a remittance, payable to the department, for the amount of excise tax due.

BDR 35-370-- Revises provisions relating to state highway fund and funding for department of motor vehicles and public safety and administration of state highways.

SUMMARY--Revises provisions relating to state highway fund and funding for department of motor vehicles and public safety and administration of state highways. (BDR 35-370)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to motor vehicles; abolishing the limitation on the amount of revenue collected by the department of motor vehicles and public safety which may be used to administer and collect certain fees and charges; abolishing the highway patrol special account; abolishing the limitation on the fees that may be charged by the department of transportation for the issuance of permits authorizing the operation of oversize or overweight vehicles; and providing other matters properly relating thereto.

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

Section 1. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the state highway fund.

2. The proceeds from the imposition of any license or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this state

and the proceeds from the imposition of any excise tax on gasoline or other motor vehicle fuel must be deposited in the state highway fund and must, except for costs of administering the collection thereof, be used exclusively for administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The interest and income earned on the money in the state highway fund, after deducting any applicable charges, must be credited to the fund.

4. [Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

5. Costs] *The costs* of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

[6.] 5. All bills and charges against the state highway fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the director and must be presented to and examined by the state board of examiners. When allowed by the state board of examiners and upon being audited by the state controller, the state controller shall draw his warrant therefor upon the state treasurer.

Sec. 2. NRS 481.155 is hereby amended to read as follows:

481.155 1. Except as otherwise provided in this section, the chief of the Nevada highway patrol may enter into a contract with any person or

governmental agency to provide services for the control of vehicular traffic related to or affected by any special event sponsored by the person or agency.

2. Any such contract:

(a) Must require the sponsor of the special event to reimburse the Nevada highway patrol for the cost of the services provided.

(b) May require the sponsor to furnish a bond to ensure that reimbursement is made.

(c) Is subject to the following limitations:

(1) The services provided pursuant to the contract must be provided by personnel of the Nevada highway patrol.

(2) The services required must not impair the ability of the Nevada highway patrol to perform its customary duties.

3. Any money received by the Nevada highway patrol pursuant to such a contract must be deposited with the state treasurer for credit to the motor vehicle fund . [or the highway patrol special account, as appropriate for the services provided.]

4. As used in this section, "special event" has the meaning ascribed to it in NRS 484.900.

Sec. 3. NRS 484.743 is hereby amended to read as follows:

484.743 1. The board of directors of the department of transportation may by resolution authorize the movement of vehicles upon the public highways, including without limitation motor vehicles, tractors, trailers, semitrailers and combinations thereof, of a size and weight in excess of the limits prescribed by this chapter, to such extent as may be authorized by any legislation enacted by

the Congress of the United States permitting such increases without forfeiture of this state's eligibility for federal aid in highway construction and maintenance.

2. The board of directors of the department of transportation may by resolution establish a reasonable fee or fees to be charged by the department for the issuance of permits authorizing the operation of oversize or overweight vehicles as provided in this chapter. [The fee or fees so established must be in an amount set so that the aggregate amounts received from the fee or fees do not exceed the estimated costs of administering the permit system.]

Sec. 4. NRS 481.145 is hereby repealed.

Sec. 5. On July 1, 1995, or as soon thereafter as practicable, the state controller shall transfer the balance in the highway patrol special account which is not committed for expenditure to the state highway fund.

Sec. 6. This act becomes effective on July 1, 1995.

TEXT OF REPEALED SECTION

481.145 Supplementary troopers; highway patrol special account.

1. The Nevada highway patrol must be augmented by, in addition to the personnel provided by NRS 481.140, supplementary troopers to the extent

permitted by the money available, but the total number of troopers must not exceed the number specified for a particular fiscal year by the legislature.

2. The director shall appoint those additional troopers as soon after the beginning of each fiscal year as he can determine the amount of money which is available for that purpose.

3. The department shall transfer biweekly \$6 for every motor vehicle registered during the next preceding 2 weeks pursuant to the provisions of chapter 482 of NRS or NRS 706.801 to 706.861, inclusive, to the highway patrol special account, which is hereby created in the state highway fund. The money in the account must be used only for the purpose specified in subsection 1.

BDR 43-371-- Revises provisions governing disposition of money collected from fee imposed on short-term leases of passenger cars.

SUMMARY--Revises provisions governing disposition of money collected from fee imposed on short-term leases of passenger cars. (BDR 43-371)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to motor vehicles; requiring that the money collected from the fee imposed on short-term leases of passenger cars be deposited in the state highway fund; and providing other matters properly relating thereto.

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

Section 1. NRS 482.313 is hereby amended to read as follows:

482.313 1. Upon the lease of a passenger car by a short-term lessor in this state, the short-term lessor shall charge and collect from the short-term lessee a fee of 6 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity. The amount of the fee must be indicated in the lease agreement.

2. On or before January 31 of each year, the short-term lessor shall:

(a) File with the department, on a form prescribed by the department, a report indicating the total amount of:

(1) Fees collected by the short-term lessor during the immediately preceding year pursuant to this section; and

(2) Vehicle licensing fees and taxes paid by the short-term lessor during the immediately preceding year pursuant to this chapter.

(b) Remit to the department:

(1) One-third of the fees collected by the short-term lessor during the immediately preceding year pursuant to this section; and

(2) Of the remainder of such fees, any amount in excess of the total amount of vehicle licensing fees and taxes paid by the short-term lessor during the immediately preceding year pursuant to this chapter.

3. The department shall deposit all money received from short-term lessors pursuant to the provisions of this section with the state treasurer for credit to the state [general] *highway* fund.

4. To ensure compliance with this section, the department may audit the records of a short-term lessor.

5. [Nothing in this section limits or affects] *This section does not limit or affect* the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. As used in this section, "vehicle licensing fees and taxes" means:

(a) The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the passenger cars leased by him; and

(b) The basic and supplemental privilege taxes paid by the short-term lessor with regard to such passenger cars.

Sec. 2. This act becomes effective on July 1, 1995.

BDR 32-372-- Revises provisions relating to taxation of liquefied petroleum gas.

SUMMARY--Revises provisions relating to taxation of liquefied petroleum gas.

(BDR 32-372)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to the tax on special fuel; revising the rate of tax on the sale or use of liquefied petroleum gas; eliminating the conversion factor for liquefied petroleum gas used in the calculation of the tax on special fuel; and providing other matters properly relating thereto.

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

Section 1. NRS 366.190 is hereby amended to read as follows:

366.190 1. Except as otherwise provided in subsection 2, a tax is hereby imposed at the rate of 27 cents per gallon on the sale or use of special fuels.

2. A tax is hereby imposed at [the] :

(a) *The rate of [23] 6.7 cents per gallon on the sale or use of liquefied petroleum gas ; and*

(b) *The rate of 23 cents per gallon on the sale or use of compressed natural gas.*

Sec. 2. NRS 366.197 is hereby amended to read as follows:

366.197 For the purpose of taxing the sale or use of compressed natural gas , [or liquefied petroleum gas,] 125 cubic feet of natural gas [or liquefied petroleum gas] shall be deemed to equal 1 gallon of special fuel.

Sec. 3. This act becomes effective on July 1, 1995.

BDR 35-373-- Authorizes local governments and departments of transportation to establish toll roads and toll bridges.

SUMMARY--Authorizes local governments and department of transportation to establish toll roads and toll bridges. (BDR 35-373)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to roads; authorizing local governments and the director of the department of transportation to establish toll roads and toll bridges; and providing other matters properly relating thereto.

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

Section 1. Title 35 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires:

1. "Municipality" means a county, city or town.
2. "Toll road" means any highway, freeway or other right of way used primarily for vehicular traffic and includes all structures, culverts, curbs, drains, buildings, services and works incidental to the construction or operation of a toll road.

Sec. 3. If practicable, a toll road established pursuant to this chapter must parallel existing roads.

Sec. 4. The governing body of a municipality may:

1. Construct, maintain and operate toll roads and toll bridges. The toll road or toll bridge may be a new road or bridge or an existing road or bridge to which major improvements will be added, or any combination thereof.

2. Defray the cost of the construction, operation and maintenance of a toll road or toll bridge by the issuance of bonds or other securities pursuant to NRS 350.500 to 350.720, inclusive.

3. Apply for, accept and expend any federal or private grant of money or other type of assistance that becomes available to carry out the provisions of this section and sections 5 and 6 of this act.

4. Enter into an interlocal or intercounty agreement for the acquisition or major improvement of a toll road or toll bridge.

Sec. 5. 1. The governing body of a municipality may enter into an agreement with another governing body or the director of the department of transportation to:

(a) Study the feasibility of constructing a toll road or toll bridge;

(b) Construct, operate and maintain a toll road or toll bridge; or

(c) Defray the cost of the construction, operation and maintenance of the toll road or toll bridge by the issuance of bonds or other securities pursuant to NRS 350.500 to 350.720, inclusive.

2. Any agreement entered pursuant to subsection 1 must:

(a) Not exceed 40 years in term; and

(b) Be payable from any money lawfully available to the governing body or the department of transportation.

Sec. 6. 1. The ordinance providing for the issuance of any bonds or other securities pursuant to section 4 or 5 of this act must specify the period that the project will remain a toll road or toll bridge and the use of the revenue therefrom.

2. When the project is no longer a toll road or toll bridge, the governing body may enter into an agreement with the director of the department of transportation to make the former toll road or toll bridge a part of the state highway system.

Sec. 7. 1. If public money is not used to finance construction, a governing body may:

(a) Adopt an ordinance ordering the acquisition or major improvement of a road or bridge and charge a toll for the use of the road or bridge; and

(b) Contract with a person to construct, improve, maintain or operate, or any combination thereof, the road or bridge as a toll road or toll bridge without complying with the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, chapters 332, 338 and 339 of NRS, if the governing body enters into a contract for the acquisition, construction or major improvement of the road or bridge which includes:

(1) A provision stating that the requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work to be performed under the contract; and

(2) The price, stated as a lump sum or as unit prices, which the governing body agrees to pay for the road or bridge if the road or bridge meets all requirements and specifications in the contract.

2. The governing body may provide for a letter of credit, surety bond or other collateral to guarantee payment of any interim warrants or bonds issued for a toll road or toll bridge.

3. If a governing body creates a toll road or toll bridge, it shall create a special revenue fund for the tolls collected. Any interest and income earned on the money in the fund must remain in the fund for use as all other money in the fund is used. The money in the fund may only be used to pay the cost of the project for which the tolls are collected and the administrative costs directly related to the project, including the cost of collecting the tolls. The appropriate officer of the municipality shall transfer monthly from the fund to a debt service fund created for this purpose the amount of money necessary to make any payments of interest or principal that will be due in the following year for debt related to the toll road or toll bridge so that there will be a sufficient amount of money in the debt service fund to make all such payments.

Sec. 8. The governing body of a municipality shall not convert an existing road or bridge into a toll road or toll bridge pursuant to the provisions of this chapter solely to pay the cost of maintenance of the road or bridge.

Sec. 9. As used in sections 9 to 13, inclusive, unless the context otherwise requires:

1. "Board" means the board of directors of the department of transportation.

2. "Director" means the director of the department of transportation.

Sec. 10. 1. Upon approval of the board, the director may:

(a) Establish a toll road or toll bridge.

(b) Enter into an agreement with another state or the Federal Government, or both, concerning the construction, major improvement or maintenance, or any combination thereof, of a toll road or toll bridge.

2. The director may enter into any contracts necessary for the construction, major improvement or maintenance of the road or bridge.

3. The toll road or toll bridge may be a new road or bridge or an existing road or bridge to which major improvements will be added, or any combination thereof.

4. The director shall not convert an existing road or bridge into a toll road or toll bridge pursuant to the provisions of this chapter solely to pay the cost of maintenance of the road or bridge.

Sec. 11. The toll charged for use of the road or bridge must be calculated by the director to produce, within a reasonable period, an amount of money equal to the cost of the project or the portion of the cost of the project to be financed by the tolls. After the cost of the project is recovered, the toll must not be collected unless:

1. A plan for necessary maintenance or future improvements has been adopted by the director;

2. The plan is approved by the board; and

3. The amount of the toll is recalculated to produce the amount of money required by the plan.

Sec. 12. Money collected as tolls from a toll road or toll bridge authorized pursuant to sections 9 to 13, inclusive, of this act must be accounted for separately in the state highway fund and may only be used to pay the costs of the project for which the tolls are collected and the administrative costs directly related to the project, including the cost of collecting the tolls.

Sec. 13. 1. The director may, with the approval of the board, request that the board of examiners issue general obligation bonds, revenue bonds or any other evidence of indebtedness, or any combination thereof, to finance the construction of a toll road or toll bridge.

2. The bonds or other obligations may be issued at one time or from time to time.

3. The provisions of chapter 349 of NRS apply to the issuance of the bonds or other obligations pursuant to this section.

BDR 43-374-- Revises provisions relating to fees for registration of certain motor vehicles and imposes additional tax on special fuel used by certain special fuel users.

SUMMARY--Revises provisions relating to fees for registration of certain motor vehicles and imposes additional tax on special fuel used by certain special fuel users. (BDR 43-374)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to motor vehicles; revising the provisions relating to the fees for the registration of certain motor vehicles; imposing an additional tax on the special fuel used by certain vehicles operated by a special fuel user; and providing other matters properly relating thereto.

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

Section 1. NRS 482.482 is hereby amended to read as follows:

482.482 1. In addition to any other applicable fee listed in NRS 482.480 , there must be paid to the department for the registration of every motortruck, truck tractor or bus which has a declared gross weight of:

- (a) Less than 6,000 pounds, a fee of \$33.
- (b) Not less than 6,000 pounds and not more than 8,499 pounds, a fee of \$38.
- (c) Not less than 8,500 pounds and not more than 10,000 pounds, a fee of \$48.

(d) Not less than 10,001 pounds and not more than 26,000 pounds, [a fee of \$12 for each 1,000 pounds or fraction thereof.] *the following fees:*

(1) For a motortruck, truck tractor or bus which will travel less than 10,001 miles within or without Nevada during the year for which it is registered, a fee of \$4 for each 1,000 pounds or fraction thereof.

(2) For a motortruck, truck tractor or bus which will travel not less than 10,001 miles and not more than 20,000 miles within or without Nevada during the year for which it is registered, a fee of \$6 for each 1,000 pounds or fraction thereof.

(3) For a motortruck, truck tractor or bus which will travel more than 20,000 miles within or without Nevada during the year for which it is registered, a fee of \$12 for each 1,000 pounds or fraction thereof.

(e) Not less than 26,001 pounds and not more than 80,000 pounds, [a fee of \$17 for each 1,000 pounds or fraction thereof.] *the following fees:*

(1) For a motortruck, truck tractor or bus which will travel less than 10,001 miles within or without Nevada during the year for which it is registered, a fee of \$6 for each 1,000 pounds or fraction thereof.

(2) For a motortruck, truck tractor or bus which will travel not less than 10,001 miles and not more than 20,000 miles within or without Nevada during the year for which it is registered, a fee of \$9 for each 1,000 pounds or fraction thereof.

(3) For a motortruck, truck tractor or bus which will travel more than 20,000 miles within or without Nevada during the year for which it is registered,

a fee of \$17 for each 1,000 pounds or fraction thereof. The maximum fee is \$1,360.

2. If the number of miles a motortruck, truck tractor or bus travels within or without Nevada during the year for which it is registered is more than the number of miles declared pursuant to paragraph (d) or (e) of subsection 1, the department shall collect the difference between the amount paid for the registration of that vehicle and the amount which should have been paid for the registration of that vehicle based on the number of miles that the vehicle actually traveled.

3. The department shall adopt regulations necessary to carry out the provisions of subsections 1 and 2.

4. The registration fees for fleets of vehicles with a declared gross weight in excess of 26,000 pounds and the tax imposed by the provisions of chapter 371 of NRS for the privilege of operating those vehicles may be paid in equal installments. Except for the first installment, which must be paid at the time of registration, installments are due on or before April 1, July 1 and October 1 of each year. The amount of each installment must be determined by taking the total fee and privilege tax due for the calendar year and dividing that amount by the sum of the total number of installments for that calendar year due after the date of registration plus one.

[3.] 5. If the due date of any installment falls on a Saturday, Sunday or legal holiday, that installment is not due until the next following business day.

[4.] 6. Any payment required by subsection [2] 4 shall be deemed received by the department on the date shown by the post office cancellation mark

stamped on an envelope containing payment properly addressed to the department, if that date is earlier than the actual receipt of that payment.

[5.] 7. A person who fails to pay any fee pursuant to subsection [2] 4 or privilege tax when due shall pay to the department a penalty of 10 percent of the amount of the unpaid fee, plus interest on the unpaid fee at the rate of 1 percent per month or fraction of a month from the date the fee and tax were due until the date of payment.

Sec. 2. NRS 366.190 is hereby amended to read as follows:

366.190 1. Except as otherwise provided in subsection 2, a tax is hereby imposed at the rate of 27 cents per gallon on the sale or use of special fuels.

2. A tax is hereby imposed at the rate of 23 cents per gallon on the sale or use of liquefied petroleum gas and compressed natural gas.

3. *In addition to the tax imposed pursuant to subsection 1, a special fuel user who operates a motor vehicle which has a declared gross weight of more than 26,000 pounds shall pay to the department a tax of 2 cents per gallon for the special fuel used in the propulsion of that vehicle. The tax must be paid by the special fuel user when he files his quarterly tax return with the department pursuant to NRS 366.380.*

Sec. 3. NRS 366.700 is hereby amended to read as follows:

366.700 All money received by the department pursuant to the provisions of this chapter must be deposited with the state treasurer to the credit of the motor vehicle fund. An amount equal to that part of the tax collected pursuant to *subsection 1 of* NRS 366.190 which represents 5 cents of the tax per gallon, minus the portion of that amount used to administer the department of motor

vehicles and public safety, must be used exclusively for the construction and maintenance of public highways, and may not be used to purchase equipment related thereto.

BDR S-375-- Requires director of department of transportation to contract with private party to conduct study to determine allocation of costs for operation of highways for each class of motor vehicles which uses highways in Nevada.

SUMMARY--Requires director of department of transportation to contract with private party to conduct study to determine allocation of costs for operation of highways for each class of motor vehicles which uses highways in Nevada. (BDR S-375)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to highways; requiring the director of the department of transportation to contract with a private party to conduct a study to determine the allocation of costs for the operation of the highways in this state for each class of motor vehicles which uses those highways; and providing other matters properly relating thereto.

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

Section 1. 1. The director of the department of transportation shall cause to be conducted a study to determine the allocation of the costs for the operation of the highways in this state for each class of motor vehicles which uses those highways.

2. The study must include:

(a) An evaluation of the system of highways in this state.

(b) A review of the classes of motor vehicles which use the highways in this state. The review must include:

(1) An identification of each class of vehicles based on its declared gross weight and whether that class is intended for commercial or private use.

(2) An identification of each category of highway in this state and the amount of use by each class of vehicles for that category.

(c) An evaluation of the annual costs of building and maintaining the system of highways in this state.

(d) A determination of the allocation of the costs for the operation of the system of highways in this state for each class of vehicles which uses that system.

Sec. 2. 1. The director of the department of transportation shall, not later than October 1, 1995, enter into a contract with a private person to conduct the study required by section 1 of this act.

2. The director shall not expend more than \$150,000 to pay for the cost to conduct the study.

3. The director shall ensure that a copy of the results of the study is submitted to the director of the legislative counsel bureau for transmittal to the 69th session of the Nevada Legislature.

Sec. 3. This act becomes effective on July 1, 1995.