



NYE COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

Department: Public Works	Meeting Date:
Category: Timed Agenda Item - 10:00 a.m.	January 3, 2023
Prepared by: Public Works	Phone: (775) 751-6262
Presented by: Thomas Bolling	Phone: (775) 751-6262

Action requested: (Include what, with whom, when, where, why, and terms)

Public Hearing, discussion and deliberation to adopt, amend and adopt, or reject Nye County Bill No. 2022-21: A Bill proposing to amend Nye County Code Title 3, titled Revenue and Finance, Chapter 3.04, titled Motor Vehicle Fuel Tax, Section 3.04.020, titled Definitions by amending Motor Vehicle Fuel, and amending Section 3.04.100, titled Imposition and Rate; Motor Vehicle Fuel by imposing a five cent (\$0.05) per gallon excise tax on diesel fuel and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)

Nye County does not currently collect any tax on diesel fuel sales. NRS 373.062 allows the imposition of a diesel fuel tax not to exceed five cents per gallon in counties with populations under 100,000 with two-thirds majority approval of the members of the board. Eight counties in Nevada (Carson City, Churchill, Humboldt, Lyon, Mineral, Pershing, Storey, and White Pine) have already implemented this five-cent tax since March 2020.

At the April 21, 2021 RTC meeting, the commissioners stated that they would be in support of a five-cent diesel tax being imposed for Nye County.

According to our 2019 Streets and Highways plan update, with a budget of \$4.25 million, it is estimated that the roads will continue to deteriorate from a Pavement Condition Index (PCI) of 48 in 2019 to a PCI of 45 in 2022. Deferred maintenance will steadily increase from \$225 million after planned maintenance is applied, to \$231 million in 2022. To maintain the current PCI in the near term, Nye County should budget \$10 million per year (unadjusted for inflation) on maintenance and repair needs. Over time, the County's PCI will start to gradually increase due to decreased deferred maintenance quantities.

This additional funding would allow Nye County to complete more maintenance and construction projects in accordance with our 2019 Streets and Highways plan and approved RTC Pavement Preservation List 2022-2028.

Recommendation:

Public Works staff recommends adopting Nye County Bill 2022-21 with an effective date of January 23, 2023

Financial Impact

Cost: \$ 0.00	Fund Name:	Fund #:
Budgeted: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	FY:	<input type="checkbox"/> One-Time <input type="checkbox"/> Recurring
Comments:		

Review & Approval

Legal Review Required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Legal Approval Received: <input type="checkbox"/>	Date: 11/28/22
Financial Review Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Submitted to Finance: <input type="checkbox"/>	Date:
Administrative Manager Review: <input checked="" type="checkbox"/>	Place on Agenda: <input checked="" type="checkbox"/>	Initials: ST

Item # 12

BILL NO. 2022-21

NYE COUNTY ORDINANCE NO. ____

SUMMARY: A Bill proposing to amend Nye County Code Title 3, titled Revenue and Finance, Chapter 3.04, titled Motor Vehicle Fuel Tax, Section 3.04.020, titled Definitions by amending Motor Vehicle Fuel, and amending Section 3.04.100, titled Imposition and Rate; Motor Vehicle Fuel by imposing a five cent (\$0.05) per gallon excise tax on diesel fuel and providing for the Severability, Constitutionality and Effective Date Thereof; and other matters properly relating thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 3, TITLED REVENUE AND FINANCE, CHAPTER 3.04, TITLED MOTOR VEHICLE FUEL TAX, SECTION 3.04.020, TITLED DEFINITIONS BY AMENDING MOTOR VEHICLE FUEL, AND AMENDING SECTION 3.04.100, TITLED IMPOSITION AND RATE; MOTOR VEHICLE FUEL BY IMPOSING A FIVE CENT (\$0.05) PER GALLON EXCISE TAX ON DIESEL FUEL AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to the provisions of Nevada Revised Statutes (NRS) Chapter 373, Nye County enacted Nye County Code (NCC) Chapter 3.04 entitled Motor Vehicle Fuel Tax; and

WHEREAS NCC Chapter 3.04 creates the Regional Transportation Commission (RTC);

and

WHEREAS, Nevada Senate Bill 48 adopted July 1, 2019 amended Nevada Revised Statutes (NRS) Chapter 373 to allow counties whose population is less than 100,000 and for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance impose a tax on special fuel that consists of diesel fuel sold in the county in an amount not to exceed 5 cents per gallon; and

WHEREAS, Nye County has a population less than 100,000 and has adopted a streets and highways plan pursuant to NRS 278.150 and does not currently tax diesel fuel; and

WHEREAS the RTC recommended at their April 21, 2021 meeting that the County impose a 5-cent tax on diesel fuel in order to regain some of the purchasing power lost over the past thirty years and provide much needed revenue for County road maintenance activities.

NOW THEREFOR, the Board of County Commissioners of the County of Nye, State of Nevada does ordain:

NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS, with ~~Deletions~~ shown in strike-through, red font, and additions and modifications shown in underscored blue font:

3.04.020: Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings set out in this section, unless the context otherwise clearly requires:

ACQUISITION OR ACQUIRE: The opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the United States of America, any agency, instrumentality or corporation thereof, the state, any body, corporate and politic therein, any corporation or any person, the endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of any project, or an interest therein, authorized in this chapter.

BOARD: The board of county commissioners.

COMMISSION: The regional transportation commission.

COST OF THE PROJECT (Or Any Phrase Of Similar Import): All or any part designated by the board of the cost of any project or interest therein acquired, which cost at the option of the board may include all or any part of the incidental costs pertaining to the project, including, without limitation, preliminary expenses advanced by the county from funds available for use therefor or any other source, or advanced by any city with the approval of the county from funds available therefor, or from any other source, or advanced by the state or the federal government or any corporation, agency or instrumentality thereof, with the approval of the county, or any combination thereof, in the making of surveys, preliminary plans, estimates of costs, other preliminaries, the costs of appraising, printing, estimates, advice, contracting for the services of engineers, architects, financial consultants, attorneys at law, clerical help, other agents or employees, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of bonds and other securities, contingencies, the capitalization with bond proceeds of any interest on the bonds for any period not exceeding one year, and of any reserves for the payment of the principal of and interest on the bonds, the filing or recordation of instruments, the costs of emergency loans, construction loans and other temporary loans of not exceeding three (3) years pertaining to the project and of the incidental expenses incurred in connection with such loans, and all other expenses necessary or desirable and pertaining to any project, as estimated or otherwise ascertained by the board.

DEALER:

A. Means and includes every person who:

1. Refines, manufactures, compounds, or otherwise produces motor vehicle fuel and sells or distributes the same in this county;
2. Imports motor vehicle fuel into this county, and sells or distributes the same therein, whether in the original package or container in which it is distributed or otherwise, or who uses the motor vehicle fuel in this county after having imported the same;
3. Having acquired motor vehicle fuel in this county in the original package or container, distributes or sells the same in such original package or container or otherwise, or in any manner uses the same;
4. Otherwise acquires in this county for sale, use or distribution in this county motor vehicle fuel with respect to which there has been no prior taxable sale, use or distribution.

- B. Does not include any person who imports into this county motor vehicle fuel in quantities of five hundred (500) gallons or less, purchased from a supplier who is licensed as a dealer under Nevada Revised Statutes chapter 365, and who assumes liability for the collection and remittance of the applicable excise tax to this county.

DEPARTMENT: Means Nye County Public Works.

DISTRIBUTES OR DISTRIBUTION: All motor vehicle fuel which has been sold, donated, consigned for sale, bartered, used or in any way voluntarily disposed of so as to terminate the ownership and possession thereof by the dealer or any other person who imports such motor vehicle fuel owned by him.

FEDERAL SECURITIES: Bills, certificates of indebtedness, notes, bonds, or similar securities which are direct obligations of, or the principal and interest of which securities are unconditionally guaranteed by the United States of America.

HIGHWAY: Every way or place of whatever nature open to the use of the public for purposes of surface traffic, including highways under construction.

IMPROVEMENT OR IMPROVE:

- A. The extension, widening, lengthening, betterment, alteration, reconstruction or other major improvement, or any combination thereof of any project, or an interest therein, authorized under this chapter.
- B. Does not include renovation, reconditioning, patching, general maintenance or other minor repair.

MOTOR VEHICLE: Means and includes every self-propelled motor vehicle, including tractors, operating on a surface highway.

MOTOR VEHICLE FUEL: Means and includes gasoline, natural gasoline, casing head gasoline, diesel fuel, or any other flammable or combustible liquid, by whatever name such liquid may be known or sold, the chief use of which in this county is for the propulsion of motor vehicles, motorboats, or airplanes. Kerosene, gas oil, fuel oil, jet aircraft fuel, and liquefied petroleum gas shall not be considered motor vehicle fuel, for the purpose of this chapter.

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

RETAILER: Means and includes every person, other than a "dealer" as defined herein, engaged in the business of selling motor vehicle fuel.

TAX COMMISSION: The Nevada tax commission and its duly authorized agents. (Ord. 249 § 1, 2002)

3.04.100 IMPOSITION AND RATE; MOTOR VEHICLE FUEL

- A. In addition to any other taxes provided by law, every dealer shall, not later than the twenty fifth day of each calendar month: Render to the department and tax commission a statement of all motor vehicle fuel sold, distributed or used by him in the county, as well as all motor vehicle fuel sold, distributed or used in this county by a purchaser thereof upon which sale, distribution or use the dealer has assumed liability for the tax thereon under section 3.04.020 of this chapter, during the preceding calendar month; and
 - 1. Pay an excise tax of nine cents (\$0.09) per gallon on all fuel sold, distributed, or used in this county by a purchaser thereof within the time prescribed in NRS Chapter 373.
 - 2. Pay an excise tax of five cents (\$0.05) per gallon on all diesel fuel, as defined in NRS 373.0246, so sold, distributed sold, distributed, or used in this county by a purchaser thereof within the time prescribed in NRS Chapter 373.
 - 3. Any tax imposed pursuant to the provisions of this section does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any diesel fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:
 - a) As diesel fuel to which dye has been added pursuant to such law; and
 - b) As diesel fuel to which dye has not been added pursuant to such law.
- B. The tax commission, for good cause, may extend for not to exceed thirty (30) days the time for making any report or return required under this chapter. The extension may be granted at any time if:
 - 1. A request therefor has been filed with the tax commission within or prior to the period for which the extension may be granted; and
 - 2. A remittance of the estimated tax is made when due. Any dealer to whom an extension is granted shall pay, in addition to any delinquent tax due, interest at the rate of one-half of one percent (0.5%) per month, or fraction thereof, from the date on which the tax would have been due without the extension to the date of payment.
- C. Any report, return, remittance to cover a payment or claim for credit or refund required by this chapter which is transmitted through the United States mail shall be deemed filed or received by the tax commission on the date shown by the post office cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the tax commission establishes that such document or remittance was timely deposited in the United States mail properly addressed to the tax commission.
- D. For the purpose of this chapter, motor vehicle fuel and diesel fuel are sold where it is delivered into a vehicle not belonging to the seller or into a stationary tank on the premises of the buyer.
- E. The tax authorized by this section, or any change in the amount of the tax, will become effective on the first day of the second calendar month following enactment of the ordinance imposing, or changing the amount of, the tax.

3.04.110: IMPOSITION AND RATE; INFLAMMABLE LIQUIDS

- A. In addition to any other taxes provided for by this chapter, every person who uses any inflammable or combustible liquid or other material other than "motor vehicle fuel", as defined in section 3.04.020 of this chapter, to operate a motor vehicle on the highways of this state, except special fuel as defined in Nevada Revised Statutes 366.060, shall pay an excise tax as provided by section 3.04.100 of this chapter for each gallon thereof so used, and shall render monthly statements and make monthly payments at the times and in the manner prescribed for dealers in this chapter. (Ord. 59 § 3(a), 1969: Ord. 52 § 30.150(2), 1966)
- B. Any owner or operator of a motor vehicle who imports motor vehicle fuel or other fuel or material, except exempted fuel as defined in section 3.04.020 of this chapter, into this county, from another state or from federal proprietary lands or reservation, in the fuel tank or tanks of any such motor vehicle in a quantity exceeding twenty five (25) gallons shall, upon demand of the tax commission or its duly authorized agent, pay to the tax commission on such excess motor vehicle fuel the excise tax required to be paid by dealers under this chapter.
- C. Nothing in this section shall be construed to require more than one payment of any excise tax upon or in respect to the same fuel.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application thereof to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 23rd day of January, 2023.

Proposed on the 6th day of December, 2022

Proposed by: Commissioner _____.

Adopted on the ____ day of _____, 2023

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____
 Frank Carbone, Chair
 Nye County Board of
 County Commissioners

ATTEST: _____
 Mark F. Kampf
 Clerk and Ex-Officio
 Clerk of the Board

BILL NO. 2022-21

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Title 3, titled Revenue and Finance, Chapter 3.04, titled Motor Vehicle Fuel Tax, Section 3.04.020, titled Definitions by amending Motor Vehicle Fuel, and amending Section 3.04.100, titled Imposition and Rate; Motor Vehicle Fuel by imposing a five cent (\$0.05) per gallon excise tax on diesel fuel and providing for the Severability, Constitutionality and Effective Date Thereof; and other matters properly relating thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 3, TITLED REVENUE AND FINANCE, CHAPTER 3.04, TITLED MOTOR VEHICLE FUEL TAX, SECTION 3.04.020, TITLED DEFINITIONS BY AMENDING MOTOR VEHICLE FUEL, AND AMENDING SECTION 3.04.100, TITLED IMPOSITION AND RATE; MOTOR VEHICLE FUEL BY IMPOSING A FIVE CENT (\$0.05) PER GALLON EXCISE TAX ON DIESEL FUEL AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to the provisions of Nevada Revised Statutes (NRS) Chapter 373, Nye County enacted Nye County Code (NCC) Chapter 3.04 entitled Motor Vehicle Fuel Tax; and

WHEREAS, NCC Chapter 3.04 creates the Regional Transportation Commission (RTC);
and

WHEREAS, Nevada Senate Bill 48 adopted July 1, 2019 amended Nevada Revised Statutes (NRS) Chapter 373 to allow counties whose population is less than 100,000 and for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance impose a tax on special fuel that consists of diesel fuel sold in the county in an amount not to exceed 5 cents per gallon; and

WHEREAS, Nye County has a population less than 100,000 and has adopted a streets and highways plan pursuant to NRS 278.150 and does not currently tax diesel fuel; and

WHEREAS, the RTC recommended at their April 21, 2021 meeting that the County impose a 5-cent tax on diesel fuel in order to regain some of the purchasing power lost over the past thirty years and provide much needed revenue for County road maintenance activities.

NOW THEREFOR, the Board of County Commissioners of the County of Nye, State of Nevada does ordain:

NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS, with ~~Deletions~~ shown in strike-through, red font, and additions and modifications shown in underscored blue font:

~~1. CODE AMENDMENT. Nye County Code Chapter 3.04, Motor Vehicle Fuel Tax, is amended as follows:~~

3.04.020: Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings set out in this section, unless the context otherwise clearly requires:

ACQUISITION OR ACQUIRE: The opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the United States of America, any agency, instrumentality or corporation thereof, the state, any body corporate and politic therein, any corporation or any person, the endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of any project, or an interest therein, authorized in this chapter.

BOARD: The board of county commissioners.

COMMISSION: The regional transportation commission.

COST OF THE PROJECT (Or Any Phrase Of Similar Import): All or any part designated by the board of the cost of any project or interest therein acquired, which cost at the option of the board may include all or any part of the incidental costs pertaining to the project, including, without limitation, preliminary expenses advanced by the county from funds available for use therefor or any other source, or advanced by any city with the approval of the county from funds available therefor, or from any other source, or advanced by the state or the federal government or any corporation, agency or instrumentality thereof, with the approval of the county, or any combination thereof, in the making of surveys, preliminary plans, estimates of costs, other preliminaries, the costs of appraising, printing, estimates, advice, contracting for the services of engineers, architects, financial consultants, attorneys at law, clerical help, other agents or employees, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of bonds and other securities, contingencies, the capitalization with bond proceeds of any interest on the bonds for any period not exceeding one year, and of any reserves for the payment of the principal of and interest on the bonds, the filing or recordation of instruments, the costs of emergency loans, construction loans and other temporary loans of not exceeding three (3) years pertaining to the project and of the incidental expenses incurred in connection with such loans, and all other expenses necessary or desirable and pertaining to any project, as estimated or otherwise ascertained by the board.

DEALER:

A. Means and includes every person who:

1. Refines, manufactures, compounds or otherwise produces motor vehicle fuel and sells or distributes the same in this county;
2. Imports motor vehicle fuel into this county, and sells or distributes the same therein, whether in the original package or container in which it is distributed or otherwise, or who uses the motor vehicle fuel in this county after having imported the same;

3. Having acquired motor vehicle fuel in this county in the original package or container, distributes or sells the same in such original package or container or otherwise, or in any manner uses the same;
 4. Otherwise acquires in this county for sale, use or distribution in this county motor vehicle fuel with respect to which there has been no prior taxable sale, use or distribution.
- B. Does not include any person who imports into this county motor vehicle fuel in quantities of five hundred (500) gallons or less, purchased from a supplier who is licensed as a dealer under Nevada Revised Statutes chapter 365, and who assumes liability for the collection and remittance of the applicable excise tax to this county.

DEPARTMENT: Means Nye County Public Works.

DISTRIBUTES OR DISTRIBUTION: All motor vehicle fuel which has been sold, donated, consigned for sale, bartered, used or in any way voluntarily disposed of so as to terminate the ownership and possession thereof by the dealer or any other person who imports such motor vehicle fuel owned by him.

FEDERAL SECURITIES: Bills, certificates of indebtedness, notes, bonds or similar securities which are direct obligations of, or the principal and interest of which securities are unconditionally guaranteed by the United States of America.

HIGHWAY: Every way or place of whatever nature open to the use of the public for purposes of surface traffic, including highways under construction.

IMPROVEMENT OR IMPROVE:

- A. The extension, widening, lengthening, betterment, alteration, reconstruction or other major improvement, or any combination thereof of any project, or an interest therein, authorized under this chapter.
- B. Does not include renovation, reconditioning, patching, general maintenance or other minor repair.

MOTOR VEHICLE: Means and includes every self-propelled motor vehicle, including tractors, operating on a surface highway.

MOTOR VEHICLE FUEL: Means and includes gasoline, natural gasoline, casing head gasoline, diesel fuel, or any other flammable or combustible liquid, by whatever name such liquid may be known or sold, the chief use of which in this county is for the propulsion of motor vehicles, motorboats or airplanes. Kerosene, gas oil, fuel oil, jet aircraft fuel, diesel fuel ~~diesel-fuel~~ and liquefied petroleum gas shall not be considered motor vehicle fuel, for the purpose of this chapter.

PROJECT: Street and highway construction, including, without limitation, the acquisition and improvement of any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights of way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators,

traffic separators and traffic control equipment, and all appurtenances and incidentals or any combination thereof, including, without limitation, the acquisition and improvement of all types of property therefor.

RETAILER: Means and includes every person, other than a "dealer" as defined herein, engaged in the business of selling motor vehicle fuel.

TAX COMMISSION: The Nevada tax commission and its duly authorized agents. (Ord. 249 § 1, 2002)

~~MOTOR VEHICLE FUEL: Means and includes gasoline, natural gasoline, casing head gasoline, diesel fuel or any other flammable or combustible liquid, by whatever name such liquid may be known or sold, the chief use of which in this county is for the propulsion of motor vehicles, motorboats or airplanes. Kerosene, gas oil, fuel oil, jet aircraft fuel, diesel fuel and liquefied petroleum gas shall not be considered motor vehicle fuel, for the purpose of this chapter~~

3.04.100 IMPOSITION AND RATE; MOTOR VEHICLE FUEL, ~~is amended to read as follows:~~

- ~~A. In addition to any other taxes provided by law, every dealer shall, not later than the twenty fifth of each calendar month, render to the tax commission a statement of all motor vehicle fuel sold, distributed or used by him in the county, as well as any motor vehicle fuel sold, distributed or used in this county by a purchaser thereof, upon which sale, distribution or use the dealer has assumed liability for the tax thereon under the definition of "dealer" in section 3.04.020 of this chapter during the preceding calendar month, and pay an excise tax of nine cents (\$0.09) per gallon on all motor vehicle fuel so sold, distributed or used in the manner and within the time prescribed in this chapter.~~
- ~~B. For the purposes of this chapter, motor vehicle fuel is sold at the place where it is distributed from a terminal. As used in this section, "terminal" has the meaning ascribed to it in Nevada Revised Statutes 365.088.~~
- ~~C. Any owner or operator of a motor vehicle who imports motor vehicle fuel or other fuel or material, except special fuel as defined in Nevada Revised Statutes 366.060, into this county from another state or from federal proprietary lands or reservations, in the fuel tank or tanks of any such motor vehicle in a quantity exceeding twenty five (25) gallons shall, upon the demand of the tax commission or its duly authorized agent, pay to the tax commission on such excess motor vehicle fuel the excise tax required to be paid by dealers under this chapter.~~
- ~~D. Nothing in this section or in section 3.04.110 of this chapter shall be construed to require more than one payment of any excise tax upon, or in respect to, the same fuel. (Ord. 494, 2015)~~
- A. In addition to any other taxes provided by law, every dealer shall, not later than the twenty fifth day of each calendar month:
 - 1. Render to the department and tax commission a statement of all motor vehicle fuel sold, distributed or used by him in the county, as well as all motor vehicle fuel sold, distributed or used in this county by a purchaser thereof upon which sale, distribution or use the dealer has assumed liability for the tax thereon under section 3.04.020 of this chapter, during the preceding calendar month; and
 - 2. Pay an excise tax of nine cents (\$0.09) per gallon on all fuel sold, distributed or used in this county by a purchaser thereof within the time prescribed in NRS Chapter 373.

3. Pay an excise tax of five cents (\$0.05) per gallon on all diesel fuel, as defined in NRS 373.0246, so sold, distributed sold, distributed or used in this county by a purchaser thereof within the time prescribed in NRS Chapter 373.
4. Any tax imposed pursuant to the provisions of this section does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any diesel fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:
 - (a) As diesel fuel to which dye has been added pursuant to such law; and
 - (b) As diesel fuel to which dye has not been added pursuant to such law.
- B. The ~~department~~ tax commission, for good cause, may extend for not to exceed thirty (30) days the time for making any report or return required under this chapter. The extension may be granted at any time if:
 1. A request therefor has been filed with the ~~department~~ tax commission within or prior to the period for which the extension may be granted; and
 2. A remittance of the estimated tax is made when due. Any dealer to whom an extension is granted shall pay, in addition to any delinquent tax due, interest at the rate of one-half of one percent (0.5%) per month, or fraction thereof, from the date on which the tax would have been due without the extension to the date of payment.
- C. Any report, return, remittance to cover a payment or claim for credit or refund required by this chapter which is transmitted through the United States mail shall be deemed filed or received by the ~~department~~ tax commission on the date shown by the post office cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the ~~department~~ tax commission establishes that such document or remittance was timely deposited in the United States mail properly addressed to the ~~department~~ tax commission.
- D. For the purpose of this chapter, motor vehicle fuel and diesel fuel are sold where it is delivered into a vehicle not belonging to the seller or into a stationary tank on the premises of the buyer.
- E. The tax authorized by this section, or any change in the amount of the tax, will become effective on the first day of the second calendar month following enactment of the ordinance imposing, or changing the amount of, the tax.

3.04.110: IMPOSITION AND RATE; INFLAMMABLE LIQUIDS, ~~is amended to read as follows:~~

- A. In addition to any other taxes provided for by this chapter, every person who uses any inflammable or combustible liquid or other material other than "motor vehicle fuel", as defined in section 3.04.020 of this chapter, to operate a motor vehicle on the highways of this state, except special fuel as defined in Nevada Revised Statutes 366.060, shall pay an excise tax as provided by section 3.04.100 of this chapter for each gallon thereof so used, and shall render monthly statements and make monthly payments at the times and in the manner prescribed for dealers in this chapter. (Ord. 59 § 3(a), 1969: Ord. 52 § 30.150(2), 1966)
- B. Any owner or operator of a motor vehicle who imports motor vehicle fuel or other fuel or material, except exempted fuel as defined in section 3.04.020 of this chapter, into this county, from another state or from federal proprietary lands or reservation, in the fuel tank or tanks of any such motor vehicle in a quantity exceeding twenty five (25) gallons shall, upon demand of the ~~department~~ tax commission or its duly authorized agent, pay to the ~~department~~ tax commission on such excess motor vehicle fuel the excise tax required to be paid by dealers under this chapter.

B.C. Nothing in this section shall be construed to require more than one payment of any excise tax upon or in respect to the same fuel.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application there to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 9th day of January, 2023.

Proposed on the 6th day of December, 2022

Proposed by: Commissioner _____.

Adopted on the ____ day of _____, 2023

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____
Frank Carbone, Chair
Nye County Board of
County Commissioners

ATTEST: _____
Mark F. Kampf
Clerk and Ex-Officio
Clerk of the Board