

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-sixth Session
April 8, 2011**

The Senate Committee on Natural Resources was called to order by Chair Mark A. Manendo at 3:45 p.m. on Friday, April 8, 2011, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. Manendo, Chair
Senator David R. Parks, Vice Chair
Senator John J. Lee
Senator Dean A. Rhoads
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Senator Shirley A. Breeden, Clark County Senatorial District No. 5
Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Michelle Van Geel, Policy Analyst
Charity Fowler, Counsel
Sandra Hudgens, Committee Secretary

OTHERS PRESENT:

Kyle Davis, Nevada Conservation League
Wes Henderson, Nevada Association of Counties
Bjorn Selinder, Churchill County; Elko County; Eureka County
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation
Josh Griffin, Biodiesel of Las Vegas, Inc.
Jon C. Porter, Sr., Former U.S. Congressman
Michael Threet, CFO, New-Com, Inc.

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Carlo F. Luri, General Manager, Bently Biofuels
Stacey Crowley, Director, Office of Energy, Office of the Governor
David Goldwater, Barrick Gold of North America
John P. Sande III, Nevada Franchised Auto Dealers Association; Western States Petroleum Association
Wayne Frediani, Executive Director, Nevada Franchised Auto Dealers Association
Peter Krueger, Nevada Petroleum Marketers & Convenience Store Association
Paul J. Enos, CEO, Nevada Motor Transport Association
Peter Gunnerman, Partner, Advanced Refining Concepts, LLC
Ed Meyer, President, Nevcal Trucking
Ray Bacon, President, Nevada Manufacturers Association
Alex Tanchek, Nevada Cattlemen's Association; Nevada Propane Dealers Association
Pete Konesky, Energy Program Manager, Office of Energy, Office of the Governor
Diana Hollander, Department of Education
Bill Striejewski, Senior Petroleum Chemist, Bureau of Petroleum Technology, Division of Measurement Standards, State Department of Agriculture

CHAIR MANENDO:
I open the hearing with Senate Bill (S.B.) 417.

SENATE BILL 417: Provides for the placement of recycling containers in certain locations. (BDR 40-1108)

SENATOR SHIRLEY A. BREEDEN (Clark County Senatorial District No. 5):
My understanding is S.B. 417 will require the State Environmental Commission (SEC) and the Division of Environmental Protection (DEP), State Department of Conservation and Natural Resources to provide for the placement of recycling containers at apartment complexes and condominiums in communities that have recycling programs.

I sponsored S.B. No. 137 of the 75th Session that dealt with recycling in apartment complexes. The bill was amended to apply only to counties and municipalities and their recycling programs related to the placement of recycling containers on the premises of certain apartment complexes and condominiums. It also allowed for recycling containers on college campuses. The recycling programs are up and running and doing very well.

Specifically, the current law requires counties and municipalities with populations of 100,000 people or more to provide for recycling containers at residences and public buildings where solid waste collection occurs including without limitation the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided. Similarly, smaller counties with populations of 40,000 to 100,000 people and counties under 40,000 people may make a recycling program available along with establishing recycling centers.

Recycling and the environmental movement became popular in 1970. Actually, recycling has existed for thousands of years as people used and reused what they had. With the advent of the industrial revolution, when we figured out how to make goods quickly and cheaply, it seemed to make more economic sense to throw away used items and to buy new ones. So began the environmental issues we face today brought on by society's disposal mindset. There are many environmental benefits to recycling. Lesser known benefits include the conservation of limited resources, financial gain, energy efficiency and job creation.

It takes more energy to manufacture one new aluminum can than it does to recycle 20 aluminum cans. Incinerating 10,000 tons of waste creates one job, putting the same amount of waste in a landfill creates 6 jobs and recycling that amount creates 36 jobs. In 2006, the U.S. Environmental Protection Agency (EPA) reported that the 82 million tons of waste that was recycled prevented the release of approximately 48.7 million metric tons of carbon into the air. This is roughly the amount emitted annually by 39 million cars, the energy saving equivalent of 10 billion gallons of gasoline.

For some apartment complexes, the space required for recycling bins may be an issue, but the loss of a parking spot is a small trade-off for the ability to recognize and participate in the positive environmental action. We have the ability to support recycling efforts by making collection containers readily available. I would encourage your support of S.B. 417.

CHAIR MANENDO:

I requested this bill because I do not see much movement toward recycling. The programs at the colleges are phenomenal, but we need to start moving in the right direction. There are many areas where Nevada is lagging, and recycling is one of them.

SENATOR BREEDEN:

I asked the apartment complex I was living at last Session if they had any recycle containers. The answer was no. I am back at the same apartment complex this session, and I have asked the same question about recycling containers because there are none. You are correct that things are moving slowly when it comes to recycling.

CHAIR MANENDO:

Carson City is very progressive compared to other parts of the State. If there is no recycling here, it is really lagging.

SENATOR PARKS:

One stipulation in S.B. No. 137 of the 75th Session was any new development had to create additional space for recycling. In the past two years are there records of new developments and the progress they may have made?

SENATOR BREEDEN:

I do not have the information for you, but you are correct. The bill was amended to satisfy the apartment complex folks. It stated any new apartment complex has to provide for recycling containers or any existing apartment complex that is refurbished 50 percent or more has to allow for recycling sites on the property. I can try to get the information for you.

CHAIR MANENDO:

A simple solution is the apartment complex can remove one of the garbage bins and install a recycling bin.

CHARITY FOWLER (Counsel):

That would be up to the SEC. It is something they could put in their regulations. The statute as written requires the SEC to adopt regulations for minimum standards. That definitely could be a minimum standard.

SENATOR LEE:

Does the term "apartment complexes" encompass duplexes, fourplexes and townhouses? Are you trying to grab everything residential?

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SENATOR BREEDEN:

Last Session a question was asked about duplexes. We wanted apartments and condominiums, and that is the reason I brought the bill forward. I would assume it covers everything.

MS. FOWLER:

Apartment complex is defined as a building or group of buildings, each building of which consists of at least five units or connecting rooms, with each unit designed for independent housekeeping. Duplexes at this point would not be included. But if townhomes were in a row, they possibly would be included. It has to be at least five.

KYLE DAVIS (Nevada Conservation League):

We are in support of this bill. This is an important piece of legislation as there are many apartment complexes that do not offer recycling, and we need to close the gap. I believe the intent of the bill is to reach out to residents who do not have individual garbage and recycling services, as they are dependent on the landlord to provide the recycle containers. The apartment complex definition makes sense.

CHAIR MANENDO:

I close the hearing on S.B. 417.

SENATOR PARKS MOVED TO DO PASS S.B. 417.

SENATOR LEE SECONDED THE MOTION.

SENATOR ROBERSON:

I am suggesting we move this to our next work session before we vote on it.

SENATOR RHOADS:

Is there a fiscal impact on this bill?

MS. FOWLER:

There is a fiscal impact because of the regulations being adopted. The agency estimate brought forward says there is none in the fiscal note that I have.

SENATOR RHOADS:

Enforcing it would cause a fiscal impact of some type.

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CHAIR MANENDO:
Their agencies say there is no fiscal note.

SENATOR ROBERSON:
If we wait until next week, there may be a unanimous vote from the Committee. If it is voted on today, there may not be a unanimous vote.

CHAIR MANENDO:
We will move this bill to a work session on Tuesday of next week.

SENATOR PARKS:
I withdraw my motion.

SENATOR LEE:
I withdraw my second.

CHAIR MANENDO:
I open the hearing on Senate Joint Resolution (S.J.R.) 12.

SENATE JOINT RESOLUTION 12: Expresses opposition to the designation of certain public lands as Wild Lands and urges the Secretary of the Interior to rescind the order requiring that designation. (BDR R-1113)

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):
Senate Joint Resolution 12 addresses a federal policy that could drastically affect our rural areas and the overall State economy. In December 2010, the Secretary of the Interior issued an order directing the Bureau of Land Management (BLM), U.S. Department of the Interior, to designate certain public lands as wild lands. Wild lands designated under this order may be greatly restricted under this use. The BLM will have increased authority to limit grazing, mining, energy development and recreation on these lands. Public lands in Nevada have long been managed for multiple uses, and many Nevadans rely on multiple use management for their livelihoods. Ranchers graze their animals on private and public lands, actively helping to manage these areas as they have for many years.

Mining operations provide thousands of high-paying jobs. In coming years Nevada stands to be at the forefront of renewable-energy development. With the potential restrictions, the wild lands order threatens all of these industries

and thus Nevada's economic future. Further, the order threatens a multiple use tradition that has long contributed to the health and biodiversity of resources in the State. Senate Joint Resolution 12 urges the Secretary of the Interior to rescind the wild lands order and urges Congress to honor its long-standing commitment to multiple use management of public lands in the West. As Legislators from a state with 87 percent federal land ownership, it is important for us to weigh in on this issue and communicate to the federal government how the wild lands policy will negatively affect Nevadans. I ask for your support in relaying this message with S.J.R. 12.

WES HENDERSON (Nevada Association of Counties):

Our board of directors adopted a resolution ([Exhibit C](#)) in January. This resolution asks the Secretary of the Interior to rescind Secretarial Order No. 3310 (Order). Multiple uses of public lands are important to the economy and lifestyle of Nevada's counties.

There is a process in place where wilderness can be designated with congressional approval. We believe the Order is a way to bypass congressional approval so wild lands can be designated by bureaucratic action. We are in support of S.J.R. 12.

BJORN SELINDER (Churchill County; Elko County; Eureka County):

We support the concept of multiple use of public lands. We support S.J.R. 12.

DOUG BUSSELMAN (Executive Vice President, Nevada Farm Bureau Federation):

We are in support of S.J.R. 12. The Secretary of the Interior's actions were arbitrary in coming out with the proclamation. There are processes in place that need to be followed. We urge your support of S.J.R. 12.

SENATOR LEE:

What makes wild lands different than other lands designated?

MR. BUSSELMAN:

That is part of the concern. This is a newly invented concept that further expands the wide array of designations that already exist. This allows the bureaucracy to create whatever definition for wild lands they wish to create and then implement and further restrict multiple uses through those kinds of designations. That is our opposition to the concept. There are already existing designations that serve the purpose of preserving natural lands. We do not

believe that wild lands are necessary to expand further the designation we already have.

SENATOR LEE:

Can you explain what makes wild lands different from public lands?

MR. BUSSELMAN:

The designation of wild lands would take lands that are currently designated as public lands under multiple uses and other types of availability for everyone. This designation would pull from that and further restrict the uses to qualify to achieve the wild lands purposes.

MR. DAVIS:

We are in opposition to S.J.R. 12. Secretarial Order No. 3310 is a crucially needed policy to restore balance to the management of public lands. This policy restores the law that has not been enforced for the last seven years. This is an important policy, and we are in support of the Secretary of the Interior adopting the policy. To provide some history, the Federal Land Policy and Management Act of 1976 (FLPMA) provided the BLM the broad authority to manage lands to protect the wilderness characteristics. In 2008, the court said the BLM should maintain, manage and inventory wild lands. This policy restores law that was not being enforced following an out-of-state court settlement with the state of Utah. The policy does not mean that land is off-limits to everyone.

When thinking about the concept of multiple uses, the concept of all uses should be considered. We agree with the concept of multiple use for our public lands, whether it is mining and grazing but also hunting, fishing, hiking, bird watching and other kinds of recreation. Many types of recreation are enhanced by having lands that are wild in character and have wildlife population and do not have oil and gas drilling or mining operations on them.

There needs to be a balance. The State has almost 2.1 million acres of designated wilderness and almost 2.1 million acres of wilderness study areas. The total BLM acres are 48 million. That is 9.5 percent of BLM public lands that is wilderness and wilderness study areas. This policy does nothing to adopt new wilderness study areas or new wilderness areas, both of which require congressional action. All this policy does is inventory public lands to determine what public lands have wilderness characteristics in order to give Congress the information should it want to consider new wilderness areas.

The inventory of public lands for wilderness designation will follow the same policy that is followed for all uses of public lands. It will go through an open meeting process where everyone will be involved. The key point is balance. We heard in earlier testimony they do not want wild lands being designated by bureaucratic action. This policy allows for the inventory of wild lands through bureaucratic action. Many other uses of public lands are done through bureaucratic action, and everything should be treated the same and done in an open public process.

CHAIR MANENDO:

Written testimony ([Exhibit D](#)) has been submitted to the Committee by Shaaron Netherton who is not here today.

I close the hearing on S.J.R. 12 and open the hearing on S.B. 146.

SENATE BILL 146: Makes various changes relating to biodiesel. (BDR 32-218)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

In my perfect world, everyone would drive electric cars and would have solar collectors charging them. There would be no carbon. That is not the case and will not be for many years to come. There are over 50 renewable-energy bills working their way through the Legislature this Session. Senate Bill 146 is the only bill that deals with the pressing concern of fuel. Currently, Nevada imports more fuel per capita than any other state. Senate Bill 146 will help stabilize Nevada's fuel supplies and prices.

Next year, nearly 1 billion gallons of biodiesel will be used in the United States and the number is consistently growing each year. This bill is not simply a new mandate for Nevadans but prepares Nevadans for a growing federal requirement to wean the country off foreign oil. Twelve states have programs that mandate and incentivize biodiesel use. Several others including Nevada are considering such programs. Furthermore, S.B. 146 is a jobs bill. Approximately 2,000 Nevadans will go to work in the transportation, construction, collection, manufacturing and distribution of domestic fuels industries. This bill will generate approximately \$75 million a year to Nevada in federal incentives.

Senate Bill 146 does not create new types of fuel Nevadans put in their cars and trucks but will determine that the fuel is manufactured in Nevada by Nevadans, and we will not import it from somewhere else.

JOSH GRIFFIN (Bio Diesel of Las Vegas, Inc.):

My amendment 1 ([Exhibit E](#)) adopts a new definition of biodiesel which is in blue type and combines it with the federal definition. The green type amends *Nevada Revised Statute* (NRS) 366.190 which is the tax rate on alternate fuels. Biodiesel does not have its own distinct tax rate when it is purchased and is fully tethered to petroleum diesel. By adding paragraph (d), a new area of statute is established for biodiesel to be taxed. The rate of 27 cents per gallon is the current level of taxation that biodiesel receives in its link to petroleum diesel.

In my amendment 2 the green type is the proposed language. *Nevada Revised Statutes* 486A, which is the alternative fuel statutes, incentivizes government fleets to use alternate forms of fuel. Government fleets serve as the guinea pigs of the alternative fuel industry and use everything that is defined from compressed natural gas to biodiesel to GDiesel. We want to leave them under those incredibly high standards so the opportunity to use biodiesel under this section of statutes still exists. Subsection 3, paragraphs (a) and (b) define exemptions to section 1. We want to make sure there is a Nevada manufacturer of alternative fuel. We want to encourage and become partners. Since they are already defined and have met the strict standards of becoming an alternative fuel under NRS 486A, the purpose of paragraph (b) of section 2, subsection 3 is to not obligate them to the blending requirements.

In my amendment 3, we changed the term "volume of" to "capacity to produce" as the mandate only goes into effect when the State has the ability to meet it. The rest of the amendment deletes the B10 mandates. The B5 mandates, which let the government fleets and fuels operate under the NRS 486A, are left alone.

JON C. PORTER, SR. (Former U.S. Congressman):

About ten days ago, I hosted an event at the Las Vegas Convention Authority with close to 100 businesses attending. A portion of the businesses were from Nevada, but the bulk of businesses were from the Middle East. The Middle East companies who were sponsored by the U.S. Department of Commerce and the U.S. Army Corps of Engineers were brought here to form partnerships and joint ventures with Nevada businesses. With the construction industry being soft, we are exporting Nevada businesses to other parts of the world. Many U.S. businesses are not leaving their home states, but they are creating business ventures around the world. As we have evolved into this global economy,

Nevada has experienced changes in the gaming industry and the blurring of boundaries. That is happening in the business world. With the advent of technology, our businesses are reacting accordingly as are our families and communities. Within seconds of an international crisis or disaster, we receive an e-mail so we know immediately what has happened. So do the business world and the oil producers around the world. We are so impacted by immediate access to information that the cost of oil is changing by the minute.

As a businessman and proud citizen of Nevada, I encourage Nevada to be on the forefront of travel, tourism, other businesses and alternate fuels. We are on the forefront with solar energy, geothermal and wind, but we can also be that in biodiesel and biomass.

We have a bipartisan approach in Washington, D.C., when looking at alternative energies. One reason is because of the immediate information that flows into our Country and the immediate impact of our Country being held hostage by other countries. In the 1970s, the United States was 30 percent dependent on foreign oil and the Country vowed it would not continue its dependency. Here it is 2011, and the United States is hovering around 60 percent dependency, maybe a little lower because of our economy. With the impact of the global economy and our weakness in defining our own energy future, we are putting our whole economy at risk. Today, biomass of alternative fuels is here before us. The President of the United States testified before Congress about the impact and his goal for alternative energy and how it would be a primary part of his next year. There is legislation on the table to encourage, if not mandate, the use of additional renewable energy. There is legislation that will provide for zero interest loans for institutions to convert to biomass. A friend of mine, Randy Forbes, is suggesting a new Manhattan Project that requires the Secretary of Energy, U.S. Department of Energy (USDOE), to provide cash awards in advanced research to create a new Manhattan research project. There is also the federal Biofuels Market Expansion Act of 2011. Seize the opportunity to be in front of what is happening. The state has an opportunity to determine its future when it comes to biomass and biodiesel.

CHAIR MANENDO:

Are we exempting fleet vehicles in the amendment?

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MR. GRIFFIN:

Yes, because NRS 486A obligates the fleet vehicles to alternative fuel statutes, which includes biodiesel and GDiesel. It also covers the government agencies such as the school districts, the cities, the counties and the Regional Transportation Commissions (RTCs).

CHAIR MANENDO:

Would they be exempt?

MR. GRIFFIN:

They would be exempt, but in practice they are exceeding the clean emissions standards.

CHAIR MANENDO:

Do those vehicles use biodiesel?

MR. GRIFFIN:

Yes, they do use alternative fuels. They use GDiesel, biodiesel and compressed natural gas. Some of the fleets in southern Nevada use B-5 and B-20 fuels.

CHAIR MANENDO:

Are the fleet vehicles the largest market for biodiesel fuel?

MR. GRIFFIN:

Yes, they are the largest market and would remain that way even if this bill passed including the amendments.

CHAIR MANENDO:

Is this amendment the product of your meeting three weeks ago?

MR. GRIFFIN:

It is, but not everyone likes it. There is opposition, and they are here today. Let me explain how we got to where we are today ([Exhibit F](#)). The federal government began mandating the use of biofuels through the Energy Independence and Security Act. This was a bipartisan effort that led to the Renewable Fuel Standard (RFS) 1 in 2007 and RFS 2 in 2010. Both bills were supported by both parties in Congress and signed by then-President Bush. By 2012, the mandate will require 800 million gallons of B100 to be used in the United States. For the record, the 100 reflects that 100 percent biodiesel will be

used in the United States. That number will likely grow every year, and it is anticipated that by 2020 America will use approximately 3 billion gallons a year—in excess of B5. Just last week, President Obama announced that he will continue this agenda from the Bush administration. President Obama gave a speech at Georgetown University and responded to rising oil prices.

In response to this federal mandate, several states have already jumped to the forefront of this emerging industry. Republican and Democratic governors alike worked with their legislatures and industries to adopt statewide mandates to meet this growing federal requirement. Those states saw an economic and environmental opportunity to prepare for the growing federal mandates to create renewable, domestically produced and environmentally sustainable fuels. Some states, like Minnesota took the lead on these initiatives and did encounter a few problems. Supported by Minnesota Governor Tim Pawlenty, the program has modified its mandate and is now experiencing trouble-free success. However, the earlier fuel types used by Minnesota and other states did not conform to uniform manufacturing standards. As a result the American Society for Testing and Materials (ASTM) established the definition of D6751. This standard obligated biodiesel to adhere to the strictest standards of cold-flow requirements and to conduct cold-soak tests. This standard has alleviated the very few problems that occurred in cold climates and reduced clogged fuel filter complaints that occurred early on. The bill adopts the exact definitional standard.

The presence of biodiesel is so prevalent in our fuel supply that the National Biodiesel Board projects that nearly one-half of every gallon of diesel used in the United States contains at least 5 percent blend of biodiesel—the very standard we are asking the Legislature to consider. Testing standards are so high that wholesalers and retailers of diesel are no longer required to disclose to users that the fuel they buy contains 5 percent or less biodiesel.

If you drive a diesel vehicle, due to federal mandates and testing disclosure standards, chances are you have put B5 into your tank and not known it. Further, every diesel engine manufacturer warranties its engines to B5 and most go higher than that. If you were to take a trip to your local car and truck dealership for instance, you will see a large sign advertising new cars and pickup trucks, particularly Dodge and Ford, ready for B20. When you hear

testimony about past problems, please realize these problems have been addressed over the last couple of years.

The cost of biodiesel has been a repeated question, and unfortunately the answers will always vary. With the rising cost of oil, biodiesel in Nevada retail establishments is consistently cheaper. With the net cost of B100 currently being less than the net cost of petroleum diesel, the more biodiesel that is used, the less expensive it is at the pump. In fact, in the January edition of the Clean Cities report, B20 was running about 8 cents per gallon cheaper than pure petroleum diesel in the western region that includes Nevada. However, historically this has not always been the case. Larger fleet users, whether government entities or large corporate users, have experienced fractionally higher costs. There are a variety of factors that influence fuel price. With growing mandates from the federal government to use more biodiesel, the cost of biodiesel will be part of the price of fuel regardless of S.B. 146. One of the biggest reasons to support S.B. 146 is to create a Nevada supply. The states that have seen the greatest reduction in biodiesel prices are the ones that manufacture it the most. By passing this bill, Nevada will enjoy similar benefits.

One complaint against S.B. 146 is the quick reaction to oppose mandates. As I have discussed, the growing federal mandate has taken most of this opposition out of our hands. Senate Bill 146 prepares Nevada for the mandate by nurturing a small but growing industry to be established here. Nevadans are going to use biodiesel as a result of the federal mandate. The question for this body is whether or not that fuel is manufactured in Nevada by Nevadans.

Over 12 years ago, the Nevada Legislature adopted the Renewable Portfolio Standard (RPS). This Legislature recognized that Nevada had an excessive dependence on outside energy supplies, that our dependence on fossil fuel-generated electricity was bad for the environment and that Nevada should foster a new economy of renewable energy. This recognition led to a series of mandates on all energy users to buy minimum amounts of energy from renewable sources such as solar, wind, geothermal and greater efficiencies. Today, as a result of these mandates thousands of Nevadans work in the renewable-energy industry. We enjoy national recognition for our RPS and as the federal government continues to have discussions about a federal RPS, we will be ahead of the curve. Because of Nevada's forward-thinking mandates, we are in the best position to export our excess renewable energy.

The amount of money Nevadans spend on electrical generation is dwarfed by what is spent on fuels. Nevadans spend more than \$7 billion a year on fuels, virtually all of which are imported from out of state. Nevada is one of the lowest states in the country in its domestic fuel production and is more reliant on international and national events affecting the price of our fuel than any state in the nation. Senate Bill 146 is the beginning of creating a new, cleaner and economically viable energy policy in Nevada. Today, there are over 55 bills dealing with renewable energy and only one that deals with renewable fuels.

There should be no opposition to mandates in Nevada. Currently, our nation's fuel supply is subject to dozens of mandates: leaded gasoline, sulphur content, emissions output, Methyl Tertiary Butyl Ether, leaking tanks, etc. The list goes on and on. The petroleum industry lives under a variety of mandates. Senate Bill 146 is one mandate that creates Nevada jobs. It stabilizes our prices.

By passing S.B. 146, Nevada will be able to realize as much as \$75 million a year in federal incentives. These incentives can go to other states with mandates such as New Mexico and Oregon, states that have recently passed biodiesel mandates, or they can come to Nevada. With such stimulus, this industry will put as many as 2,000 Nevadans to work in transportation, construction, collection of recycled grease, and manufacture and distribution of domestic fuels. It is not just the states that are getting in on the financial action. Petroleum companies have invested billions of dollars in renewable-fuels programs such as biodiesel and ethanol. Major investment banks all have programs that trade Renewable Identification Numbers, which is the measurement of renewable fuel. In short, this is a multibillion dollar industry and everyone is getting involved. Let us hope Nevada is next.

MR. PORTER:

The world is forcing us to change. Competition and the lack of a strategic energy program in our Country is forcing us to change, which means the federal government is going to force us to change. The environment is forcing us to change. Steps have to be taken to prevent what is happening with our environment around the world. With these energy sources of politics and energy and with Internet technology and expanding global market, this is an opportunity for Nevada to be on the forefront. Nevada does not want to be forced to change but to do it our way.

CHAIR MANENDO:

Are there vehicles in Las Vegas that use this gasoline right now?

MR. GRIFFIN:

Any vehicle that uses diesel fuel can use B5, which is a 5 percent blend. In a gallon of gasoline, 5 percent of it is biodiesel as defined in this bill and 95 percent is petroleum diesel.

CHAIR MANENDO:

If people so choose, can they use these fuels right now?

MR. GRIFFIN:

That is correct. In many cases people are using it and not knowing it because the standards for B5 are so high. Retailers and wholesalers no longer have to advertise that users are using B5. Because of the federal mandate, in 2012, 800 million gallons of B100 will be mixed into the petroleum diesel supply. There are about a dozen retail outlets in Las Vegas that offer between B5 and B20. There is a 40 percent chance that B5 is dispensed in your diesel vehicle and you do not know it.

SENATOR LEE:

How does a plant reach a capacity to produce?

MR. GRIFFIN:

There would not be an in-state volume without the built-in source that a mandate would generate. The theoretical start date of the 5 percent blend would be 90 days after the bill passed. But this is an arbitrary time period as we are a year to 15 months away from an executive certification that we need to start the capacity to produce. Then it would be three months after that.

SENATOR LEE:

For instance at Nellis Air Force Base there are huge vats. Does that mean they have the capacity to produce?

MR. GRIFFIN:

The trigger point for the mandate is when a manufacturing facility is operational, which means it is financed, constructed and workers hired. It would take 90 days from that point.

SENATOR LEE:

Where do mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats come from?

MR. GRIFFIN:

That is a federal definition of B100, and there are a variety of sources. You can use feedstock that is grown in Nevada or import it. My client uses recycled grease which is the yellow grease that comes from the restaurant industry in Las Vegas. The mining industry is growing crops on or near mining sites. They convert and manufacture the fuel on-site or in nearby facilities. There is a variety of ways to get it.

SENATOR LEE:

I am interested in the delivery-to-production aspect of this.

CHAIR MANENDO:

Does Biodiesel of Las Vegas, Inc. have any interest outside of Nevada?

MR. GRIFFIN:

I do not know for sure.

MR. PORTER:

The Paulk family and their companies New-Com and Acme Electric have been in Nevada for over 50 years.

MICHAEL THREET (CFO, New-Com, Inc.):

All of our interests are located here in southern Nevada. We do construction work in other states, but are headquartered in southern Nevada.

SENATOR RHOADS:

Will it be available to everybody in rural Nevada?

MR. GRIFFIN:

The B100 as defined under this bill would be blended with the petroleum diesel and would be distributed to the local communities. The mining industry uses about 2 million to 3 million gallons a year of B100.

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CARLO F. LURI (General Manager, Bently Biofuels):

Both of the large mining companies in Nevada are using biodiesel. They are motivated by the health and safety of the mine workers because the biodiesel reduces harmful emissions from diesel equipment underground. The purpose of this bill is to incentivize private businesses in Nevada to expand production capacity locally. Biodiesel can be blended and distributed the same way as petroleum diesel.

SENATOR RHOADS:

What if they do not build these plants in rural Nevada?

MR. LURI:

If the plants are not built, it does not trigger the mandate. There would be no requirement to use B5 if private industry does not step up and build the plants.

SENATOR RHOADS:

Is that in the bill?

MR. LURI:

Yes.

SENATOR RHOADS:

Please show me sometime where it is in the bill.

CHAIR MANENDO:

How much yellow grease is available in Nevada to make biodiesel?

MR. THREET:

There is somewhere between 4 million to 6 million gallons of yellow grease available in southern Nevada. I do not have the estimate for statewide availability.

CHAIR MANENDO:

Is that enough to do what you need to do?

MR. THREET:

Yes. Our feedstock will come primarily from two sources, yellow grease from southern Nevada and soybean oil or other types of feedstock. Yellow grease can be imported from other states.

CHAIR MANENDO:

Where would it be imported from?

MR. THREET:

It would be imported from surrounding states but primarily Southern California.

I am here to convey prepared remarks from our Chair and CEO Greg Paulk as he is unable to attend today. In 1964, my family moved to Las Vegas from Salt Lake City when my father took a job in the construction industry. The company, TAB Construction, was an underground utility contractor that installed sewer and water services for residential development and made distribution pipelines for the local municipalities. Today that company has grown to be a major local construction entity employing at its peak nearly 1,000 people with diversified construction services including wastewater and water treatment plants, pump stations, large diameter sewer, water and storm pipelines, airport runways, taxiways, aprons and jet fuel piping, street lights, main power feeders, traffic signals and plant electrical, earthwork and paving and most recently fuel terminal services in biodiesel production.

The subject of today's testimony, biodiesel, is an industry that received our attention in 2006. We had a specialty service company that was collecting used cooking oil from some of the major hotels and delivering to a biodiesel manufacturing company near Nellis Air Force Base. At that time, the Las Vegas economy was booming, and being green was not only environmentally correct but the economics worked—that is B20 was cheaper than petroleum-based diesel. The growing demand for fuel in southern Nevada was being addressed by a blue ribbon committee formed to consider alternative delivery sources.

Our equipment fleet was large enough to go green and run B20 in the summer and B5 in the winter, all at a reduced cost with absolutely no maintenance issues. We saw an opportunity to diversify our service, differentiate ourselves from the competition, become an advocate of emissions reduction and do it without forsaking profitability. We acquired Biodiesel of Las Vegas, purchased 14 acres of industrial property served by the Union Pacific Railroad in North Las Vegas and began constructing a state-of-the-art fuel terminal and biodiesel production facility. Once complete, we will terminal 80 million to 100 million gallons of ethanol and produce 30 million to 40 million gallons of biodiesel per year. Our investment to date is nearing \$50 million with \$15 million earmarked for expansion. This site will serve the alternative-fuel

needs of our community as well as surrounding states. We are committed to open this September and strongly support the legislation proposed in S.B. 146.

What we have learned since 2006 is as long as biodiesel remains scarce it will be expensive. We need to explore every opportunity to increase the demand and supply of biodiesel so it can compete with the cost of petroleum. In 2006, users were willing to pay a premium for the environmental benefits of biodiesel. Today with budget cuts, reduced spending and the worsened state of our economy, we cannot afford to pay more. Mandating a 5 percent blend will increase the demand and allow for the economies of scale that will drive down the price. Public fleets like the school district and the RTC, the largest users of biodiesel in our State, should pay less for B5 blend than petroleum diesel. A statewide mandate will bring the private sector into the fold, increase the demand and cause the price to go down. We have come this far, and with your help Nevada can lead the clean air cause without burdening the citizens with higher prices. That concludes Mr. Paulk's prepared comments.

As chief financial officer of New-Com, Inc. and watching firsthand the number of jobs that have evaporated from within our State, it should be noted that any construction of the biodiesel terminal facility will bring over 115 full-time jobs to the State. It will provide 35 ongoing operational personnel and any legislation that increases the probability of success needs to be strongly considered.

CHAIR MANENDO:

Is it true that biodiesel does not perform well in cold temperatures?

MR. LURI:

Yesterday afternoon I was at the Sierra Tahoe Ski Resort which is at 10,000 feet elevation, and they have been using B5 in their snowcat equipment for two seasons in very extreme environments.

CHAIR MANENDO:

How many pounds of yellow grease does it take to make a gallon of biodiesel?

MR. LURI:

Typically a gallon of virgin cooking oil translates to a gallon of biodiesel. Yellow grease, because it is a recycled product that can get comingled and contaminated with water and solids, yields 90 percent to 95 percent. So it is a little lower than virgin oil.

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CHAIR MANENDO:

How many pounds of yellow grease does it take to make a gallon of biodiesel?

MR. LURI:

About seven and one-half to eight pounds of yellow grease will make a gallon of biodiesel.

CHAIR MANENDO:

What about soybean oil?

MR. LURI:

About seven and one-half pounds of soybean oil will make one gallon of biodiesel.

I support the bill. I work for the Bently family, and they have been in Nevada for over 50 years. Bently Nevada has been a very successful company that operates with over 1,000 employees worldwide. In 2002, Bently started with biodiesel before there was a biodiesel industry, any state mandates or federal support for the fuel. We did it because it was the right thing to do for our economy and for environmental reasons.

The United States is beholden to foreign interests to buy our petroleum. For every gallon of fuel that is purchased, 60 percent or more of that dollar goes to someone overseas. When buying a gallon of biodiesel, almost 100 percent of the revenue goes to companies in the United States. Potentially, all the revenue could stay in the State. We started producing biodiesel in 2005 and have run the fleet equipment on much higher than B5 blends, as much as B100 blends in the warmer months. Blend B5 has been available to the public at our retail station for the past two years. Local fleets such as FedEx and UPS have been running the fuel with no problems and no complaints in the last two years. One of our partners in Reno blends biodiesel with heating oil. A good portion of the heating oil in Reno contains a percentage of biodiesel.

CHAIR MANENDO:

Is the energy content of biodiesel 11 percent less than the petroleum-based?

MR. LURI:

It is 120,000 BTUs per gallon. Diesel varies in energy content but can be 130,000 BTUs per gallon. The positive side is biodiesel burns cleaner which

means more completely, and it promotes cleaner and more complete burning of the petroleum. I get higher and better fuel economy when running higher blends of biodiesel in my 2005 Jeep.

CHAIR MANENDO:

Would the power generation capacity of the engine decline?

MR. LURI:

At the B5 level there would be no difference and possibly a small benefit.

CHAIR MANENDO:

If it did, would the engine have to be modified?

MR. LURI:

No, there is no engine modification necessary to run B5 blends of biodiesel. Every engine manufacturer accepts five percent blend per their own engine recommendations.

MR. DAVIS:

We are in support of this bill. The environmental benefits of biodiesel are lowered emissions and reduced criteria pollutants and greenhouse gas pollutants. This State was one of the leaders in the country in establishing renewable portfolio standards and encouraging the development of renewable energy. There are thriving renewable-energy businesses in the State. We are making our way to being a capital in the area and doing our part to help our Country and world reduce pollutants. Another step in the right direction is to address the transportation sector to clean up the fuels they run on. It is a good step for the State to take.

STACEY CROWLEY (Director, Office of Energy, Office of the Governor):

We are in support of the bill and support the promotion of alternative fuels and biofuels. It supports our mission to promote the reduction of fossil fuel and purchasing of foreign oil. This is a great opportunity for local economic development.

DAVID GOLDWATER (Barrick Gold of North America):

We are in support of this bill. Barrick Gold of North America (Barrick) is the largest user of biodiesel in Nevada, using 1.5 million gallons of B99 per year. It is used because it is a clean-burning, lower-emission fuel that is good for the

environment, particularly in the sensitive underground areas in the mining industry. Additionally, Barrick is a corporate leader in support of a diversified economy and supports S.B. 146 because it creates a Nevada industry that puts Nevadans to work. Barrick has long supported renewable energy that is good for the economy, environment and creates a stable and domestic source of energy for all Nevadans. That is why we have supported renewable portfolio standards and have invested tens of million of dollars in renewable projects such as solar, energy efficiency projects and others. Senate Bill 146 is a natural extension of that philosophy, and our State should have a domestic fuel policy that is good for the environment, the economy and the creation of a stable domestic source of fuel for all Nevadans.

SENATOR LEE:

Is Barrick producing biodiesel for their own use?

MR. GOLDWATER:

Finding the cheapest, cleanest and easiest way to produce the components of biodiesel is in the interest of Barrick.

CHAIR MANENDO:

Does anything change for Barrick if this bill does not pass?

MR. GOLDWATER:

Barrick will continue to use biodiesel, although having it produced domestically and procuring it in the State is something we support.

JOHN P. SANDE III (Nevada Franchised Auto Dealers Association; Western States Petroleum Association):

The bill has been amended to only apply to B5, and its use does not have to be disclosed to the public. If B5 is cheaper, the average person would buy it anyway. The government agencies are exempt as they can use other renewable fuels or alternative fuels under this bill. If they can use other renewable fuels and alternative fuels, the general public should be able to use them. The bill makes it a mandate, which is inappropriate.

The first bill passed under the federal Renewable Fuel Standard program was passed in 2005 and was called the Energy Policy Act. It established the first renewable-fuel volume mandate in the United States. Under that statute, the original renewable-fuel standard program required 7.5 billion gallons of

renewable fuel to be blended into gasoline by 2012. That was amended in 2007 by the Energy Independent Security Act of 2007. That act expanded renewable-fuel standards to include diesel in addition to gasoline. It also increased the volume of renewable fuel required to be blended into transportation fuel from 9 billion gallons in 2008 to 36 billion gallons by 2022. There is a big concern the 2022 goal will not be met. In previous testimony it was pointed out the federal mandate only applied to biodiesel fuels. It does not. The 2007 Legislature requires the State to comply with U.S. Environmental Protection Agency categories of renewable fuel. There are not a lot of potentially new renewable fuels coming down the pipeline, but one new one is biodiesel. By putting on a mandate, it goes away.

Exxon Mobile says having individual states put in a biodiesel mandate makes it very difficult. Proliferation of individual state requirements for biofuel blending exasperates an already challenging compliance requirement for fuel suppliers. Washington's governor proposed the transportation budget reduce the use of biodiesel fuel in the ferry system by 75 percent because of concerns over higher costs for biodiesel.

WAYNE FREDIANI (Executive Director, Nevada Franchised Auto Dealers Association):

We are in opposition to the bill. One concern is the monopolistic control on how this will be retailed to the public. The other concern is the warranty provisions on engines. I do not have the data here today to talk about that specifically, but I have a concern about how it affects the engines in some of the diesel products we sell.

PETER KRUEGER (Nevada Petroleum Marketers & Convenience Store Association):
We are opposed to mandates. This is a market mandate which will require all users of diesel fuel to use this product. Twelve states have mandates, but most of the states referred to by Mr. Sande have 2 percent mandates, not 5 percent mandates. The fact that the bill was amended to remove a 10 percent mandate is definitely in the right direction, but it is still an economic mandate.

Cold climate is a problem for biodiesel use. Five percent is not a problem, but the higher the percent, the greater the congealing and requirement for heated tanks. Nevada does not need a mandate on a fuel that is already mandated by the federal government. Most people who use diesel fuel are getting at least B5. Biodiesel is made up of two components. One component is a bioproduct which

can be made from something like switch grass. That is the biomass product the federal government is pushing. The federal government has not made a significant effort to go after biodiesel because the second component is diesel fuel. Diesel fuel is a petroleum-based product.

I have a client who imports 150,000 gallons of B100, pure bioproduct, a month into Las Vegas. There is no way they can come close to achieving the quantity of product needed. To mandate that everyone use B5 where we have a federal mandate makes little sense.

My clients import bioproduct, blend it with diesel fuel and sell it to municipalities that are exempted by this bill. The largest users are exempted by this bill. That is one way to achieve capacity. The bill as written had to do with the "ability to produce" 30,000 gallons of B5. It has been changed to "have the capacity." Does that mean five tanks with the total capacity but not having the ability to produce? That is a concern.

Our association that is intimately involved in biofuels feels this mandate is not necessary. The market is working fine. This is special interest legislation aimed at one particular company to allow it to get the financing because there is a government mandate for the product. We feel it is unnecessary.

CHAIR MANENDO:

I have a philosophical issue with mandating the use yet exempting out the fleets. It is a terrible situation to say it is good enough for you but not for us. When people have issues with their government it is said that people are treated differently than others. If this bill is to move forward, they would have to be included.

MR. SANDE:

There is no problem with the amendment including B5 because it does not have to be disclosed. I do agree with you that other fleets should be included. Biodiesel cannot be put in a pipeline. If it is imported, it must be blended at the rack, then delivered by truck. There is a concern about the supply as the federal mandate makes it tough on the refiners and producers of petroleum products to comply with the mandate.

CHAIR MANENDO:

Based on the chart handed out by Mr. Griffin ([Exhibit G](#)), would this impact warranties on vehicles?

MR. FREDIANI:

Not as severely as we would think. The bill looks at the 3 largest manufacturers, and I think the heavy duty vehicles such as the 18 wheelers are where the bulk of this would be used. With the blend shown here I do not see it as being a big problem. Our industry sells 800 to 1,000 heavy duty trucks a year. We have had concerns in the light and medium duty trucks with warranties, but I do not have numbers with me.

CHAIR MANENDO:

I would like an answer.

SENATOR PARKS:

Please explain the requirement to heat B100 so it does not congeal.

MR. KRUEGER:

It is true with the higher blends of bioproduct, which contain less diesel and higher bio, that it be heated. That includes the storage tanks, pipes, racks and the transportation. The product will cloud, congeal and become a jelly-like substance.

SENATOR PARKS:

Even when it is in the vehicle it has to be warm to some degree?

MR. KRUEGER:

That would be true if using B100, but B5 is not a problem.

CHAIR MANENDO:

Will it put someone out of business if this bill goes through, and how would it impact jobs and revenue to the State?

MR. KRUEGER:

I do not see any economic impact if this bill were to pass that we would lose employees or other businesses.

MR. SANDE:

It does eliminate the possibility of other types of industries coming to the State that have other types of renewable energy.

CHAIR MANENDO:

That is something we need to consider, and I want to hear more about it.

PAUL J. ENOS (CEO, Nevada Motor Transport Association):

We are in opposition of S.B. 146. The Nevada Motor Transport Association (NMTA) does applaud the efforts of Las Vegas Biodiesel to create a production facility and jobs in the State. We are not opposed to biodiesel, but if the trucking industry wants to pursue it, we are in favor of them doing so on a voluntary basis. But we also support them using other fuels whether it is GDiesel, renewable diesel or something else that may work better for them and their industry. We do not want to do anything in state law with the economic mandate that will limit the ability of this incredibly diverse industry to function how they need to function best.

Blend B5 will not void the vehicle's warranty. However, if there is an issue with the fuel, it can void the warranty. We have seen issues in Minnesota where a number of trucks received a bad batch of biodiesel and had their warranties voided. That was when it was mandated at a B5 level. There are issues using biodiesel. Newer engines can handle biodiesel a lot better than some of the older engines. Diesel and biodiesel do get colder. Biodiesel gels at a much higher temperature than does diesel. Blend B100 has a gel point of 68 degrees. Conventional diesel is 16 degrees. Additives or an engine heater can be used to make sure the fuel does not gel in the tank.

The mining industry wants to use biodiesel underground, especially when they are subject to very stringent environmental requirements. The air does not dissipate like it does in the wide open space. Biodiesel works for them because they are not traveling a long distance. If there is an issue with the vehicle, someone can walk to it to fix it, unlike a long-haul trucker who has an issue. It is much easier when located in a contained area whether that is underground or a municipality. Most of the vehicles used by the local governments are not for over-the-road use. They are for use in those municipalities where they are not going to be far away from a place to fix it. That is not true with over-the-road trucking. If there is an issue with the fuel, they will be shut down either close to

the terminal or thousands of miles away. There are some operational issues with the use of biodiesel.

There will not be issues of fuel gelling, warranties voided and nozzle coking at five percent, but there will be some issues that need mitigation. Fuel filters will have to be changed more often, and a more protracted maintenance schedule will occur.

Large size trucking companies that use tens of thousands of gallons of diesel fuel a day will not have the issue of shelf life unlike farmers who do not use it quickly.

Quality of the product is very important. I understand there is a fiscal note on this and the State Department of Agriculture (SDA) will be looking into these issues. In states that have a biodiesel mandate, there is not a robust program to ensure the quality of the fuel going into the tank. Minnesota is the exception because they have had some detrimental issues concerning the use of biodiesel. They have been more aggressive than other states in ensuring the fuel going into the tank of vehicles is of a high quality. I am not sure in these times of limited resources that we could create a robust program in the State that would ensure the quality of fuel.

Throughout the world, many things are used to create biodiesel such as corn, cheat grass and cassava. On Wednesday, the *New York Times* said with food prices rising sharply in recent months, many experts are calling on countries to scale back their headlong rush into green fuel development, arguing the combination of ambitious biofuel targets and mediocre harvest of some crucial crops is contributing to high prices, hunger and political instability. We may think biodiesel is the answer and we can grow our own fuel, but if changes are made in one place it will have an impact somewhere else. It may sound like it makes sense to grow our fuel but there are impacts on people like not being able to eat the thing they are used to eating or the price of corn going up. Biodiesel B100 does have a dollar tax credit. With the dollar tax credit, the rack price of B100 in Reno is \$4.25 a gallon. Without the tax credit, it would be \$5.25 per gallon. Right now, ultralow sulphur diesel number two is \$4.15 a gallon. So biodiesel is more expensive.

The Kansas City spot market price for yellow grease is 46 cents per pound. It takes seven and one-half pounds of yellow grease to produce a gallon of

biodiesel. Now let us compare crude oil at \$110.85 to a barrel of yellow grease which is \$144.90. Now compare those two to a barrel of soybean oil which is at \$185.85. There are cost variables with oil, soybean oil, yellow grease and a number of commodities. When talking about biodiesel stabilizing the price of fuel at the pump, all it will do is add another layer of volatility that is not here today.

Testifiers before me stated this amendment speaks to the capacity to produce 30 million gallons. I am not sure what that means. I do have questions about the logistics. I am glad Chair Manendo asked the question about how much yellow grease is in Nevada, because I do not know. Where is the raw material going to come from to produce 30 million gallons of biodiesel? The bill speaks to biodiesel and how it is going to allow Nevada to create its own energy and it will not have to keep importing it. We do not grow soybeans here; maybe we grow a little candelina. We will have to import a tremendous amount of feedstock to produce this product. The guys who drive trucks and move that product may benefit from it. Overall, I think it would be a detriment to the trucking industry. The trucking industry has made a tremendous investment ensuring the trucks driven are cleaner. The mandate Kyle Davis spoke about, removing lead from gas, is an environmental mandate that has benefits for everyone.

This bill is an economic mandate, not an environmental mandate, that will benefit producers of one fuel product at cost to the trucking industry. There is not a lot we make here and consume in Nevada that does not come by truck. It is proven that 92.9 percent of all the manufactured freight in the State comes exclusively by truck. If we are not able to produce the 30 million gallons or the 5 percent we will need to put in every gallon of diesel, the trucking industry may be shut down or we may create a fuel shortage.

I am worried about stifling innovation. If there was a mandate five years ago that everyone must have a laptop computer, the iPad probably would not have been invented. If there was a mandate that only vinyl records could be produced, there never would have been cassette tapes, 8 tracks, compact discs or an iPod. If innovation is stifled, especially in the very important industry of fuel, we are only hurting ourselves. Mandates stifle innovation, and they give people incentives to keep producing what is mandated. The scary thing about a mandate is it allows the people who are producing the fuel to control the price. Right now there is an incentive for them to keep the price of biodiesel in line

with conventional diesel, because if it is more expensive, no one will buy it. If the market incentive is taken away to keep the price in line with the other products out there by mandating everyone must buy a percentage of this fuel, there will be no control over where those price will go. There is not an agency in this State that regulates the price of fuel. I do worry how this will increase the cost of fuel the truckers need to put in their tanks.

PETER GUNNERMAN (Partner, Advanced Refining Concepts, LLC):

GDiesel fuel is not a biodiesel fuel. It does not have a fatty acid methyl ester component in it, and neither does the raw material that is required for it. GDiesel is made of ultralow sulphur diesel and methane derived from natural gas in a closed loop catalytic low-pressure, low-temperature process. GDiesel has been designated as an alternative fuel by the DEP.

In 2007, my father and I began GDiesel literally in his garage. We started the development of GDiesel through developing a more efficient refining technology that allowed refining petroleum products at low temperatures and low pressure, which is unusual in standard technology. Based on our research and successes of that research and development, we filed for patents and currently received three United States patents on our technology and have others pending. The technology was developed in Nevada, and I am very proud of that. Our company, which was formed in 2008, Advanced Refining Concepts, is also based in Sparks, Nevada. In 2008, we started the company with one employee and today we have over 30 high-paid clean-tech employees. Every dollar that has gone into our company and our development has come from my family and to date that is \$24.5 million. Nobody helped us. There were no mandates, no federal funds or low-cost loans. We reached into our own pockets and made a go of it.

Through 2008 and 2009, we started to file for the various permits required to produce and sell fuel with agencies like the Department of Motor Vehicles (DMV), the federal EPA and others. We broke ground on a new refinery that has since been completed at the Tahoe-Reno Industrial Center. That refinery was completed in August 2010, and we started our commercial sales of GDiesel then. Since that time to today, we have sold more than 10 million gallons of GDiesel, mostly into the local northern Nevada market. The reach of our Peru Heights refinery goes east to St. George, Utah, and south to Las Vegas, where we are the exclusive supplier to all 1,400 vehicles and generators in the Clark County fleet. Clark County was running biodiesel prior to switching over

to GDiesel. By their own calculations, they are saving about \$50,000 a year using my product, plus seeing environmental and operational benefits. Our refinery has recently doubled its capacity from 100,000 gallons per day to 200,000 gallons per day. We are in the midst of permitting a new refinery we are calling the Mohave Dunes refinery in Clark County. We hope upon completion of that refinery, besides the hundreds of construction jobs that will come to Clark County, it will bring an additional 20 high-paying, high-tech, clean-tech jobs to southern Nevada.

I wanted to bring up the history of our fuel to get the knowledge out there that there are other ways to bring fuels to the market other than through mandates. To date, we have been very successful and hope it continues for the good of Nevada. We are on track to make over \$100 million in sales for this year. Through yesterday, we have over \$20 million in sales for GDiesel product.

I do thank Mr. Griffin for his efforts to include us in such a way as to not hurt our business, but there is still more work that needs to be done.

SENATOR RHOADS:

If we pass this bill, will it put you out of business?

MR. GUNNERMAN:

The way the bill is written today it has the potential to put us out of business. We are thankful Mr. Griffin is working with us to change language, but it still needs more work.

CHAIR MANENDO:

How many employees do you have?

MR. GUNNERMAN:

We have 32 employees. When the permitting is complete for the Mojave Dunes refinery, we hope to add at least another 20 employees.

CHAIR MANENDO:

How much do your employees earn a year?

MR. GUNNERMAN:

On average about \$40,000 a year.

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CHAIR MANENDO:
Do they have benefits?

MR. GUNNERMAN:
Yes, we have full health coverage for the employees, and we are looking at a matching 401K program.

ED MEYER (President, Nevcal Trucking):
We are a local company that has a fleet of 80 trucks which we are in the process of increasing. We employ 100 people at a wage over \$40,000 a year. We provide medical insurance and a 401K to our employees. Our primary business is running ocean containers between the Port of Oakland and northern Nevada.

I am concerned about this bill. We have about 50 trucks a day that travel over Donner Summit, and the lower BTU fuel will cause some issues for us. If I receive a bad batch of diesel, I could be out of business, especially if it voids the vehicle warranties. I have a very narrow profit margin, and with the increased maintenance schedule I have no way of recovering the cost in this economy. The 20 trucks I am buying this year have gone up in price between \$30,000 and \$40,000 per truck because of the government mandate. It is hard to recover all the additional costs. On a side note, we are running GDiesel in our trucks. If the bill goes through, I would have to run biodiesel. Does it mix with GDiesel? What kind of problems would I run into going back forth to use my 5 percent?

SENATOR LEE:
How does the tax credit work? Any fleet as defined in NRS 468A.080 shall not be made subject to the requirements of this statute. Who is a fleet in that statute?

MR. ENOS:
A fleet is the vehicles of any county of more than 100,000 people that has more than 50 vehicles. That would only include Clark County and Washoe County. All the other local government fleets would be subject to the biodiesel mandate. Only Clark and Washoe Counties would be exempted.

The total cost of the biodiesel would be reviewed. Without the tax credit the total cost of one gallon of biodiesel at the rack today in Reno would be \$5.25.

But with the federal tax credit, it is \$4.25 a gallon for B100. For B10 there would be a 10-cent tax credit. For B5 there would be a 5-cent tax credit. The dollar tax credit is based on B100 which is 100 percent biodiesel.

SENATOR LEE:

Your contention was that Congress can change its mind and it could go up. But federally they are making a move in this area, where they will increase the opportunity for cheaper gas.

MR. ENOS:

We are not opposing a federal mandate. In fact, it makes sense to have a federal mandate on fuel, especially one that will affect the interstate trucking industry. When there is a state mandate, prices go up. California has a mandate for a low-carbon diesel which on the wholesale price has a 4-to 5-cent differential. At the rack where it is purchased, it is an additional 14 cents a tank. There is going to be a premium on this fuel when implementing a mandate.

MR. MEYER:

The last-minute amendment was almost withdrawn two months ago.

SENATOR LEE:

Was that the correct definition of fleets?

CHARITY FOWLER (Counsel):

Yes, that was the correct definition.

SENATOR LEE:

Does that mean any company with 50 trucks or more would be exempt?

MS. FOWLER:

It would be a state agency or local governing body that is in a county with 100,000 people or more and has 50 or more motor vehicles registered in the same county.

SENATOR LEE:

Is it because of the price or some other reason they asked to be opted out?

MR. ENOS:

That is a question they can best answer. It is a cost and an operational issue. As Mr. Meyer stated, there is a more protracted maintenance schedule. Fuel filters have to be changed more often when using a product like biodiesel. Storage facilities must be heated so there are not issues with gelling. The local governments expressed the financial issues and operational issues and were able to opt out. I wish the over-the-road trucking industry could have the same courtesy extended to it.

MR. BUSSELMAN:

Our testimony in opposition to S.B. 146 is not based on our opposition to biodiesel. We are not opposed to the fuel but we do believe it is not necessary to have a mandate for individuals to produce for a market and yield the results from that market. Testimony has been presented today from at least two entrepreneurs who ventured into their respective technologies and produced their fuel without having mandates. It was the marketplace that produced that invention. That is where we need to go. We heard this fuel is everywhere. If biofuel is everywhere already, why do we need to have a 5 percent mandate to have it available in Nevada? From a rural agricultural standpoint, our biggest concern is that there are producers who need diesel fuel who are in very remote areas of the State. While the state mandate applies to Las Vegas and Reno, it would be easy to provide fuel to them. The same requirements would apply in the rural parts of the State. We are not sure how to get the fuel there and meet the obligation the law would place on us. We are very concerned about that. There are plenty of opportunities for manufacturers to enter into the market, and we think the concept of a state mandate is unnecessary.

MR. SELINDER:

I support the comments made in opposition to the bill as it is currently written and the amendment that has been proposed. I had a brief couple of minutes to review the amendment, and I came to the conclusion under NRS 468A.080 the counties I represent would not be exempt from the mandated use of biodiesel fuel. From the standpoint of a local government, all options available must be taken advantage of to save the taxpayers. To mandate the purchasing of a specific fuel will be detrimental to the expenses of local government.

RAY BACON (President, Nevada Manufacturers Association):

I agree with the comments made by Mr. Sande. There are multiple research projects going on around the country in higher educational institutions and other places to make diesel from things like algae. There will be different and competitive products in the future, and they should not be precluded in the State. Some situations occur in the manufacturing sector where engines are not run for a long period of time. For example, in southern Nevada many concrete trucks are not in use. The anecdotal information is when biodiesel sits for a long period of time, depending on the concentration and the temperature variation, there could be vehicle problems. Some people may need to use pure diesel, low concentrations of diesel or the GDiesel as an option, and the mandate would not allow that possibility.

ALEX TANCHEK (Nevada Cattlemen's Association; Nevada Propane Dealers Association):

We oppose mandating biodiesel and have concerns about the potential impact it could have on very expensive pieces of machinery. It should be driven by the market, not mandated by the government.

SENATOR LEE:

Whom are you representing concerning the issues with the machinery?

MR. TANCHEK:

Both associations have concerns with biodiesel being used in the equipment. The propane dealers have expressed concern to me. I have not talked to the Nevada Cattlemen's Association but imagine in the process of getting beef to the market, they use diesel and would be impacted by this.

PETE KONESKY (Energy Program Manager, Office of Energy, Office of the Governor):

We are neutral on this bill. There are two laws that control fuel in the State. *Nevada Revised Statutes* 486A controls state mandated fuel conservation and alternate fuels that were defined in 1991 before the Energy Policy Act was created. These fuels were defined as fuels that were not readily available within the State. Twenty years have passed since the law came into effect, and the problem we are having is defining the alternative fuels that are federally mandated and relating them to the fuels that are in the State. Hydrogen, electricity and ethanol are federally mandated alternate fuels. Las Vegas is the one entity that has to meet the federal requirements.

We have no way of following the amount of biodiesel sold. Nine years ago, in the Assembly, we came to an agreement that said the fuel tanks on alternate fuels would be rated on BTU content. This was never put into law. This would allow B100 to be taxed at a slightly lower rate than the 27 cents in the plan now. The federal government does not recognize biodiesel as an alternative fuel unless we track how much is sold and used within the State. For every 450 gallons, we get a vehicle credit. The ethanol users are switching to isobutanol, which has more chemical possibilities available.

At some point, I would like to discuss with you changing NRS 486A concerning the definition of alternate fuels to bring them into compliance with the federal standards that we have to meet in our annual report to the federal government.

SENATOR LEE:
For whom do you work?

MR. KONESKY:
I work for the Office of Energy, Office of the Governor.

SENATOR LEE:
Is it a part of your responsibility to monitor if they have equaled or exceeded two and a half gallons per month for three consecutive months?

MR. KONESKY:
No, it is not our responsibility. The office responsibility is to report the State's compliance with purchasing 75 percent of new vehicles being alternate fuel users to the USDOE. The State requirement is 90 percent. Las Vegas has to abide by both laws. They have to purchase 90 percent of their fuel for their alternate fuel vehicles where the federal law only requires 75 percent. We have to keep track of the seven fleets that have more than ten vehicles fueling at a common fueling site and get those reports in by December 31 of each year to show we comply. If some of the agencies do not purchase alternate fuel vehicles, we have to use the bank credits that we have. One way to get bank credits is to keep track of the biodiesel used because diesel vehicles are not considered alternate fuel vehicles. It is difficult identifying how we can comply, especially when some agencies do not want to comply with the federal law.

SENATOR LEE:

What is the agency that will ensure the two and a half million gallons per month for three consecutive months?

MS. FOWLER:

The Governor is the one who makes the declaration, but it is the State Board of Agriculture that is adopting the regulation. It is not specified in the bill if they give the report to the Governor, but I would assume so.

DIANA HOLLANDER (Department of Education):

I am taking a neutral stand on this bill. Every single point I would have made, for and against, has already been addressed. When thinking about this kind of mandate, remember the school buses and school districts. The school bus industry is very supportive of alternative fuels and the industry nationally has made many attempts and successfully built alternative fuel vehicles. In the rural districts, the availability of biodiesel is not there and they would need storage tanks. There are many older buses that cannot use biodiesel, and many of the rural districts purchase older buses from the larger districts. Depending on the age of the bus the manufacturers warranty is void if using biodiesel in it.

The transportation budget has been cut by \$10 million in Clark County, so any additional costs will be a problem for the districts. The maintenance of the tanks in Clark County cost about \$2,500 per tank, and they spent \$25,000 last year maintaining their biodiesel tanks.

One thing to consider is that most of the schools have emergency generators. From what I am told, B5 biodiesel fuel cannot be used in them. The propensity to grow bacteria and fungal slime when regularly used tends to plug the filters and fuel lines, reducing the ability of the generator to function in an emergency.

I do not understand a bill draft that is here to reduce diesel emission not being used in the two cities that have the biggest pollution problems. The rural counties do not have a particulate pollution problem.

BILL STRIEJEWSKE (Senior Petroleum Chemist, Bureau of Petroleum Technology, Division of Measurement Standards, State Department of Agriculture):

The SDA is taking a neutral stand on this issue, and I am only here to speak on the fiscal note. To clarify, I submitted in-house two different possible routes for verifying the diesel fuel contains the mandated 5 percent biodiesel.

Instrumentation can be purchased and testing done in our labs, or the samples can be sent to an outside lab for testing.

While pages 2 through 4 of the fiscal note give explicit explanations of both routes, the table located on the top of page 1 combines both routes and does not give the correct view of the costs. In fact, both routes would have similar first-year costs. Differences arise beyond the first-year costs, where outside testing would have a significant ongoing cost.

We are neutral on this bill and realize there are costs associated with it because of the necessity of testing to ensure that retailers are complying with the 5 percent mandate.

To answer a question Senator Lee had, it may be the weight and measures part of the SDA monitoring the production. Although we do not do that at the source, it might likely be done by the Motor Carrier Division, DMV.

SENATOR LEE:

You have been talking about a fiscal note. I do not have a copy of it. Could you explain it to those of us who do not have a copy of the fiscal note?

MR. STRIEJEWSKE:

We have two petroleum labs, one in the north and one in the south, and ideally we would purchase instrumentation for both labs to perform the testing in-house. An instrument for each of those labs would cost \$65,000, and for the northern part of the State, cold-weather testing instrumentation would be purchased. The fiscal note was modeled by talking to my counterpart in Oregon. The only cost after the initial investment would be instrument replacement, repair and maintenance. The other way to go would be to send samples out to a third party for testing. We would need trained shippers for hazardous goods and pay shipping costs and testing. That would be ongoing throughout the program.

SENATOR LEE:

Would the fiscal note go down after 2013? Would there still be some labor on the testing part?

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MR. STRIEJEWSKE:

I am speaking about the petroleum lab part of it. The weight and measures inspectors would bring us the samples, but they would bring us the samples anyway. It would not be additional work.

CHAIR MANENDO:

Written testimony ([Exhibit H](#)) on S.B. 146 has been presented to the Committee from Lauren A. Scott who is not here today.

We will hear testimony for Senate Bill 309 at our next meeting.

SENATE BILL 309: Authorizes a person to remove from his or her property an animal for which he or she has, by contract, provided care and shelter under certain circumstances. (BDR 50-703)

Seeing no further comments, I adjourn the meeting at 6:39 p.m.

RESPECTFULLY SUBMITTED:

Debra Carmichael,
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.J.R. 12	C	Wes Henderson	Resolution of the Nevada Association of Counties
S.J.R. 12	D	Shaaron Netherton	Friends of Nevada Wilderness
S.B. 146	E	Josh Griffin	Proposed Amendment
S.B. 146	F.	Josh Griffin	Written Testimony
S.B. 146	G	Josh Griffin	Automakers' and Engine Manufacturers' Position of Support for Biodiesel Blends
S.B. 146	H	Lauren A. Scott	Written Testimony