

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

**Seventy-Eighth Session
February 19, 2015**

The Senate Committee on Natural Resources was called to order by Chair Don Gustavson at 1:34 p.m. on Thursday, February 19, 2015, in Room 2144 of the Legislative Building, Carson City, 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 Don Gustavson, Chair
Senator Pete Goicoechea, Vice Chair
Senator James A. Settelmeyer
Senator David R. Parks
Senator Mark Manendo

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Matthew Nichols, Counsel
Lynn Berry, Committee Secretary

OTHERS PRESENT:

Colleen Cripps, Ph.D., Administrator, Division of Environmental Protection, State
Department of Conservation and Natural Resources
Greg Lovato, Deputy Administrator, Division of Environmental Protection, State
Department of Conservation and Natural Resources
Robert Nellis, Assistant Director, Nevada Department of Transportation

Chair Gustavson:

I will open the hearing on Senate Bill (S.B.) 89.

SENATE BILL 89: Revises provisions regarding expenditures from the Fund for
Cleaning Up Discharges of Petroleum. (BDR 51-370)

**Colleen Cripps, Ph.D. (Administrator, Division of Environmental Protection,
State Department of Conservation and Natural Resources):**

Senate Bill 89 amends provisions in *Nevada Revised Statute* (NRS) 590.835 related to the State Petroleum Fund. I have a prepared testimony ([Exhibit C](#)).

The State Petroleum Fund was established in 1989. It provides reimbursement to qualified underground storage tank owners/operators for cleanup costs associated with releases of petroleum products. This fund will pay up to \$1 million, minus a 10 percent co-payment, for each eligible leaking tank system. For an underground storage tank to be eligible for coverage by the fund, the tank must be registered with the program and a \$100 annual registration fee must be paid.

The fund is supported by a 3/4-cent fee for each gallon of Grades 1 and 2 diesel fuel and heating oil imported into or refined in Nevada. The fund maintains a balance of \$7.5 million to support underground storage tank cleanups throughout the State. At the end of the year, any funds remaining in excess of \$7.5 million are transferred to the State Highway Fund.

This bill clarifies the amount of money the Division may expend for cleaning up releases of petroleum products in those rare cases where responsible parties are unable to respond and the release presents an imminent and substantial hazard.

At the October 22, 2013, Interim Finance Committee (IFC) hearing, committee members questioned the Division's application of the \$250,000 per release limit currently in statute. There was concern there can be multiple releases at one site. This bill proposes to eliminate the \$250,000 cap per release and replace it with an annual limit of \$2 million statewide to respond to all releases, unless additional authorization is provided by the IFC. The language will eliminate any ambiguity in the existing statutory language and provide sufficient funds to conduct a necessary cleanup at a site that has caused off-site groundwater contamination.

This bill will also broaden the authority of the Division to use these funds to clean up releases of petroleum-based chemicals, such as dry cleaning solvents. The ability to use the petroleum fund to conduct cleanups will allow the Division to address those types of releases as soon as possible to minimize the damage those pollutants could cause.

This type of cleanup is rare; however, there are several sites around the State where dry cleaning solvent contamination exists yet the owner/operator is not moving forward with the cleanup. By expanding the eligibility, the Division would be able to clean up those sites over time. We would seek cost recovery through existing statutory authority.

The Division contacted the Nevada Department of Transportation (NDOT) during development of this bill as the expanded use of these funds has the potential to reduce the amount of funding transferred to the State Highway Fund. The NDOT indicated they had no objection to expanding the scope as proposed or establishing an annual limit. I want to be clear that any reimbursement of funds will go back into the Petroleum Fund and could potentially be returned to NDOT through our annual transfer.

Senator Goicoechea:

What does petrochemical mean?

Dr. Cripps:

It is anything that could be derived from a petroleum product that comes out of the ground.

Senator Goicoechea:

It must come from the ground but not grown in the ground, such as corn?

Dr. Cripps:

Correct. We are not looking at produce.

Senator Parks:

Is the source of revenue for this fund from a tax on motor fuel?

Dr. Cripps:

Yes, it is a 3/4-cent fee on fuel that is sold or refined in Nevada.

Senator Parks:

In my former district there was a dry cleaning establishment where solvents migrated almost a mile. Would this bill include that type of cleanup?

Dr. Cripps:

Yes, where there is no revenue to cover the cleanup. In the case you are referring to, we were able to get cost recovery.

Senator Parks:

Has that cleanup been completed?

Greg Lovato (Deputy Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

We have abated the migration of contaminated groundwater into residences by installing systems and "sub-slabs" in affected homes. Settlements have been reached with the dry cleaner totaling \$7 million. A plan is being developed to complete the cleanup. The exposure to solvents was cut off into indoor air 3 years ago. The funds have finally been accumulated to finish the cleanup.

Senator Parks:

You created a venting system that takes the exposure outside of the home. Should there be a charge to dry cleaners that use chemicals that cause hazardous discharges?

Chair Gustavson:

Should dry cleaners be required to pay into this fund?

Dr. Cripps:

They do not currently pay into this fund, and we are not proposing that in this bill.

Chair Gustavson:

In 1995, the Sparks Solvent/Fuel Site had a long-term seepage. Did this fund cover that cleanup or did the distributors pay?

Dr. Cripps:

That was before my time, but I believe they not only paid for the cleanup but incurred some penalties as well.

Chair Gustavson:

Now the Sparks Marina exists where the seepage occurred. How does the process work for reimbursement from the discharger?

Mr. Lovato:

We first ask the responsible parties to perform the necessary work. If they do not do the work and we are forced to, we refer the matter to the Office of the Attorney General. We can pursue a court judgment or involve the Office of the State Controller.

Chair Gustavson:

Underground gasoline storage tanks have been changed from metal to fiberglass or other materials. Has this taken care of seepage problems?

Mr. Lovato:

There are still problems, but significantly fewer than in the past. Previously fuel tanks could sink into the water table for several feet. Now, the contamination is dissolved into the groundwater and gasoline plumes may only extend up to 250 feet instead of the 1,000 feet as they had in the past.

Senator Goicoechea:

Is the fund available for aboveground storage tanks?

Mr. Lovato:

Aboveground storage tanks can receive coverage for reimbursement of cleanup from the Petroleum Fund. The fee is \$100 per year to enroll. The underground storage tanks are required to have coverage; aboveground tanks are not.

Senator Goicoechea:

Does the size of the tank matter?

Mr. Lovato:

There is no charge for heating oil tanks. I would have to check for correct pricing for larger tanks.

Senator Goicoechea:

Does that fee go into the State Petroleum Fund?

Mr. Lovato:

Yes, it does.

Robert Nellis (Assistant Director, Nevada Department of Transportation):

The Nevada Department of Transportation supports S.B. 89. Even though S.B. 89 proposes a short-term decrease in the amount of funding reverting to the State Highway Fund, we support the Division of Environmental Protection in the intent and purpose of this bill. We believe it is in the best interest of the State. We have used special clean-up funds on past projects, but as it is a small percentage of our total capital, S.B. 89 will not jeopardize any future NDOT projects.

Chair Gustavson:

I will close the hearing on S.B. 89 and open the work session with S.B. 20.

SENATE BILL 20: Changes the name of the Commission for Cultural Affairs and moves the Commission to another department of the State Government.
(BDR 33-319)

Alysa Keller (Policy Analyst):

Senate Bill 20 moves the Commission for Cultural Affairs from its current position, as an advisory board of the Department of Tourism and Cultural Affairs, to an advisory board of the State Department of Conservation and Natural Resources. It also changes the name to the Commission for Cultural Centers and Historic Preservation.

Senate Bill 20 was prepared by the State Department of Conservation and Natural Resources at the request of the Department of Tourism and Cultural Affairs. Additional information is in the work session document ([Exhibit D](#)).

SENATOR GOICOECHEA MOVED TO DO PASS S.B. 20.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Gustavson:

There being no public comment or further business, the Senate Committee on Natural Resources is adjourned at 1:57 p.m.

RESPECTFULLY SUBMITTED:

Lynn Berry,
Committee Secretary

APPROVED BY:

Senator Don Gustavson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
S.B. 89	C	2	Colleen Cripps	Written Testimony
S.B. 20	D	2	Alysa Keller	Work Session document