

Amendment No. 349

Senate Amendment to Senate Bill No. 418	(BDR 40-970)
Proposed by: Senate Committee on Natural Resources	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 418—SENATOR SPEARMAN

MARCH 20, 2017

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to air pollution. (BDR 40-970)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to air pollution; declaring the priorities of the Legislature to expend the proceeds from certain consent decrees, orders and settlement agreements involving emissions from vehicles; ~~creating the Fund for Cleaner Emission Vehicles;~~ requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to allocate money ~~from the Fund~~ **deposited in the Account for the Management of Air Quality from such consent decrees, orders and settlement agreements to prevent, reduce or control air pollution, to** replace or repower certain school buses in this State and to construct and install publicly available hydrogen-fueling stations and electric vehicle charging stations; requiring the Division to take certain actions required by certain consent decrees, orders and settlements entered into by this State relating to emissions from vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The United States District Court for the Northern District of California recently approved two partial consent decrees in litigation between the United States Department of Justice and the Volkswagen Corporation and its subsidiaries regarding the installation and use of emissions testing devices in many vehicles sold and operated in the United States. One provision of the partial consent decrees requires the Volkswagen Corporation to fund a Mitigation Trust Fund, the money from which will be disbursed to the states based on the number of affected vehicles which were registered in each state. The money must be used to fund projects intended to offset the excess emissions of nitrogen oxides caused by the vehicles. Another provision requires the Volkswagen Corporation to direct \$2,000,000,000 of investments over a 10-year period to support the increased use of technology for zero emission vehicles. (Partial Consent Decree, *In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal. Sept. 30, 2016) and Second Partial Consent Decree, *In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal. Dec. 20, 2016))

Section 6 of this bill declares that the priority of the Legislature in expending any proceeds from this or similar litigation is to use a portion of the proceeds to: (1) **prevent, reduce or control air pollution throughout the State;** (2) assist schools and school districts to replace or repower eligible school buses to reduce emissions of nitrogen oxides and other

hazardous air contaminants; and ~~[(2)] (3)~~ construct publicly available electric vehicle charging stations and hydrogen-fueling stations. **Section 7** of this bill ~~[creates the Fund for Cleaner Emission Vehicles in the State General Fund.]~~ requires the eligible proceeds from any consent decrees, orders or settlement agreements received by this State for the purposes of mitigating emissions from vehicles or supporting the increased use of zero emission vehicles be deposited in the ~~[Fund, and provides for the administration of the Fund by the State Treasurer.]~~ **Account for the Management of Air Quality in the State General Fund.**

Section 8 of this bill requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources **to: (1) establish criteria for evaluating applications for projects that prevent, reduce or control air pollution throughout the State and criteria for prioritizing the allocation of money for such projects; (2) develop policies and procedures whereby an entity in the State may apply for money in the Account for such projects; and (3) request that the Department allocate all the money available in the Account each year to applicants in order of priority. Additionally, section 8 of this bill requires the Division** to: (1) establish a method for annually evaluating school bus fleets in this State and rank them based on certain criteria involving emissions; (2) develop policies and procedures whereby the owners or operators of school buses in this State may apply for money from the ~~[Fund]~~ **Account** to replace or repower those eligible school buses to reduce emissions; and (3) **request that the Department allocate all the money available in the [Fund] Account each year [for that purpose] to applicants [who meet the criteria for the allocations.] in order of priority.** **Section 8** also requires the Division, in cooperation with the Department of Transportation ~~[,] and the Governor's Office of Energy,~~ to: (1) determine and prioritize those areas of the State where construction and installation of publicly available hydrogen-fueling stations and electric vehicle charging stations would have the maximum impact on encouraging the use of zero emission vehicles; and (2) **request that the Department allocate all the money available in the [Fund] Account each year for that purpose for the construction. Section 8 requires the Division to establish a program to provide financial incentives to promote investment in the construction of publicly available hydrogen-fueling stations and electric vehicle charging stations. Section 8** further requires the Division to: (1) submit a report to the Governor annually and each odd-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the Legislature setting forth the allocations from the ~~[Fund;]~~ **Account;** and (2) adopt regulations. **Section 8** also authorizes the Division to take any other actions that are necessary to carry out the duties imposed by **section 8. Section 13** of this bill requires the Division to prepare and submit a Beneficiary Mitigation Plan, as required by the partial consent decrees from the Volkswagen litigation, which enacts the intent of the Legislature to use money from the Mitigation Trust Fund to assist schools and school districts to replace or repower eligible school buses to reduce emissions of nitrogen oxides and other hazardous air pollutants and to construct and install publicly available hydrogen-fueling stations and electric vehicle charging stations to support the increased use of zero emission vehicles. **Section 13** further requires the Division, when providing input relevant to the Draft National ZEV Investment Plan required by the partial consent decrees, to advocate for and encourage inclusion in the National ZEV Investment Plan the construction in this State of hydrogen-fueling stations and electric vehicle charging stations. **Sections 9-12** of this bill make conforming changes.

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

Section 1. Chapter 445B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[(2)]~~ **1.5** to 8, inclusive, of this act.

Sec. 1.5. **"Account for the Management of Air Quality" or "Account" means the Account for the Management of Air Quality created by NRS 445B.590.**

Sec. 2. **"Division" means the Division of Environmental Protection of the Department.**

Sec. 3. **"Publicly available electric vehicle charging station" means the equipment used to supply electric energy for the recharging of the batteries in**

vehicles which are partly or solely powered by electric motors that is open to the public.

Sec. 4. "Publicly available hydrogen-fueling station" means the equipment used to store and dispense hydrogen fuel according to industry codes and standards that is open to the public.

Sec. 5. "School bus" has the meaning ascribed to it in NRS 483.160.

Sec. 6. 1. The Legislature hereby declares that its priorities in expending the proceeds to the State of Nevada from consent decrees, orders and settlement agreements which result in the State receiving money for the purposes of mitigating the emissions from any vehicles and supporting the increased use of zero emission vehicles are:

(a) To prevent, reduce or control air pollution throughout the State;

(b) To assist schools and school districts to replace or repower school buses to reduce the emissions of nitrogen oxides and other hazardous air pollutants from the buses; and

(c) To construct publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations in this State.

2. To further these priorities, the Legislature hereby declares that it is in the best interest of the residents of the State of Nevada that:

(a) A portion of the money received by the State pursuant to any settlement agreement entered into by this State and a manufacturer of vehicles with diesel engines, a portion of the money recovered by the State pursuant to a consent decree or order in a civil action against a manufacturer of vehicles with diesel engines and a portion of the money received by the State from a consent decree, order or settlement agreement for the purposes of mitigating the emissions from any vehicles or supporting the increased use of zero emission vehicles be dedicated for use to prevent, reduce or control air pollution throughout the State.

(b) A portion of the money received by the State pursuant to any settlement agreement entered into by the State and a manufacturer of vehicles with diesel engines, a portion of the money recovered by the State pursuant to a consent decree or order in a civil action against a manufacturer of vehicles with diesel engines and a portion of the money received by the State from a consent decree, order or settlement agreement for the purposes of mitigating the emissions from any vehicles be dedicated toward the achievement of the goal of assisting every entity in this State which owns or operates a school bus to replace or repower the school bus in a way that:

(1) Reduces emissions of nitrogen oxides and other hazardous air pollutants from the school bus; and

(2) Mitigates the impacts of emissions of nitrogen oxides and other hazardous air pollutants on communities that have historically borne a disproportionate share of the adverse impact of those emissions.

~~((b))~~ (c) A portion of the money received by the State pursuant to any settlement agreement entered into by the State and a manufacturer of vehicles with diesel engines, a portion of the money recovered by the State pursuant to a consent decree or order in a civil action against a manufacturer of vehicles with diesel engines and a portion of the money received by the State from a consent decree, order or settlement agreement for the purposes of mitigating the emissions from any vehicles or supporting the increased use of zero emission vehicles be dedicated toward the construction of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations in this State to promote and encourage the use of zero emission vehicles in a way that:

(1) Reduces emissions of nitrogen oxides and other hazardous air pollutants from the vehicles traveling on the highways of this State; and

(2) Supports the increased use of technology for zero emission vehicles.

Sec. 7. 1. ~~[The Fund for Cleaner Emission Vehicles is hereby created in the State Treasury.]~~ The State Treasurer shall deposit in the ~~[Fund.]~~ Account;

(a) The money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of vehicles equipped with diesel engines which by the terms of the settlement may be deposited into the ~~[Fund.]~~ Account;

(b) The money received by this State pursuant to any consent decree or order in a civil action against a manufacturer of vehicles equipped with diesel engines which by the terms of the consent decree or order may be deposited into the ~~[Fund.]~~ Account;

(c) The money received by this State pursuant to any consent decree or order in a civil action or any settlement entered into by the State of Nevada and any entity for which money is to be received by this State for purposes that include the mitigation of emissions from any vehicles and for which the money received, by the terms of the consent decree, order or settlement, may be deposited into the ~~[Fund.]~~ Account;

(d) The money received by this State pursuant to any consent decree or order in a civil action or any settlement entered into by the State of Nevada and any entity for which money is to be received by this State for purposes that include supporting the increased use of zero emission vehicle technology, may be deposited into the ~~[Fund.]~~ Account; and

(e) Any gifts, grants, bequests or donations specifically designated for the ~~[Fund.]~~ Account by the donor.

2. ~~[The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:~~

~~—(a) Shall maintain the financial records of the Fund;~~

~~—(b) Shall invest the money in the Fund as the money in other state funds is invested;~~

~~—(c) Shall manage any account associated with the Fund;~~

~~—(d) Shall maintain any instruments that evidence investments made with the money in the Fund;~~

~~—(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and~~

~~—(f) May perform any other duties necessary to administer the Fund.~~

3. ~~The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.~~

4. ~~The State Treasurer or the Department may submit to the Interim Finance Committee a request for an allocation for administrative expenses from the Fund pursuant to this section. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund must not exceed:~~

~~—(a) Two percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; and~~

~~—(b) Five percent of the money in the Fund, as calculated pursuant to this subsection, each fiscal year to pay the costs incurred by the Division to carry out its duties set forth in section 8 of this act to administer the provisions of that section.~~

~~For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning~~

~~of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.~~

~~5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.~~

~~6. All money that is deposited or paid into the [Fund] Account pursuant to this section is hereby appropriated to be used for any purpose authorized by the Legislature or by the [Division] Department for expenditure or allocation in accordance with the provisions of section 8 of this act. Money expended from the [Fund] Account pursuant to that section must not be used to supplant existing methods of funding that are available to public agencies.~~

Sec. 8. 1. The Division shall:

(a) Establish criteria for evaluating applications for projects that prevent, reduce or control air pollution throughout the State that include, without limitation, determining which projects are eligible for funding pursuant to the terms of any conditions restricting the allocation of any money in the Account.

(b) Develop policies and procedures for the solicitation of and applications by an entity in this State to obtain money from the Account for a project that seeks to prevent, reduce or control air pollution throughout the State.

(c) Establish criteria for prioritizing the allocation of money from the Account for applications received pursuant to paragraph (b) for projects to prevent, reduce or control air pollution throughout the State.

(d) Request from the Department an allocation of all money available in the Account each year pursuant to the determinations made in subsection 4 to applicants in the order of priority established pursuant to paragraph (c).

(e) Meet all applicable requirements for receiving or expending money pursuant to any consent decree, order or settlement of a type set forth in paragraph (a), (b), (c) or (d) of subsection 1 of section 7 of this act.

2. The Division shall:

(a) Establish a method for annually evaluating the school bus fleets of schools and school districts in this State to rank those fleets based on which fleets:

(1) Emit the largest amount of nitrogen oxides or other hazardous air contaminants;

(2) Are used primarily in communities that have historically borne a disproportionate share of the adverse impact of those air contaminants; and

(3) Contain the highest percentage of buses that are eligible to be replaced or repowered pursuant to the terms of any conditions restricting the allocation of any money in the [Fund for Cleaner Emission Vehicles created by section 7 of this act.] Account.

(b) Develop policies and procedures for the solicitation of and applications by any entity in this State which owns or operates a school bus to obtain money from the [Fund for Cleaner Emission Vehicles.] Account for the purpose of replacing or repowering a school bus to reduce the emission of nitrogen oxides or other hazardous air pollutants.

(c) Establish criteria for prioritizing the allocation of money from the [Fund for Cleaner Emission Vehicles.] Account, including, without limitation, the rankings established pursuant to paragraph (a).

(d) [Allocate] Request from the Department an allocation of all money available for that purpose in the [Fund for Cleaner Emission Vehicles.] Account each year pursuant to the determinations made in subsection 4 to applicants [who meet the criteria established] in the order of priority determined pursuant to paragraph (c).

(e) Meet all applicable requirements for receiving or expending money pursuant to any consent decree, order or settlement of a type set forth in paragraph (a), (b), (c) or (d) of subsection 1 of section 7 of this act.

~~(f) Submit annually a report of all rankings, applications and allocations made pursuant to this subsection to the Governor and, on or before February 1 of each odd-numbered year, submit each annual report for the immediately preceding 2 years to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.~~

~~2.~~ 3. The Division, in cooperation with the Department of Transportation ~~and the Governor's Office of Energy,~~ shall:

(a) Determine those areas of this State where the construction and installation of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations would have the maximum impact on promoting, supporting and encouraging the use of zero emission vehicles.

(b) Establish criteria for prioritizing the allocation of money from the ~~Fund for Cleaner Emissions from Vehicles~~ Account for the construction and installation of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations, including, without limitation, those areas of the State determined pursuant to paragraph (a).

(c) ~~Allocate~~ Request from the Department an allocation of all money available for that purpose in the ~~Fund for Cleaner Emission Vehicles~~ Account each year pursuant to the determinations made in subsection 4 to the Department of Transportation for the construction and installation, in accordance with the provisions of chapter 333 of NRS, of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations in the order of priority determined pursuant to paragraph (b).

(d) Meet all applicable requirements for receiving or expending money pursuant to any consent decree, order or settlement of a type set forth in paragraph (a), (b), (c) or (d) of subsection 1 of section 7 of this act.

~~(e) Submit annually a report of all determinations and allocations made pursuant to this subsection to the Governor and, on or before February 1 of each odd-numbered year, submit each annual report for the immediately preceding 2 years to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.~~

~~3.~~ 4. Except as otherwise provided in subsection 5, the Division shall:

(a) Prioritize the disbursement of money from the Account for the purposes of subsections 1, 2 and 3 based on, without limitation, any uses of the money which are in the best interests of the State; and

(b) Ensure that all allocations from the Account are for projects or purposes that meet the criteria established by the Division in subsections 1, 2 and 3.

5. The Division shall establish by regulation a program to provide financial incentives, including, without limitation, grants and loans, to promote investment in the construction of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations. The Department shall, to the extent money is available from the Account for that purpose, provide an amount of money not to exceed \$2,000,000 from the Account for use by the Division for the program.

6. The Division shall submit annually a report of all applications and allocations made pursuant to this section to the Governor and, on or before February 1 of each odd-numbered year, submit each annual report for the immediately preceding 2 years to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

7. The Division:

1 (a) *Shall adopt any regulations; and*

2 (b) *May take any other actions,*

3 *↪ that are necessary to carry out its duties pursuant to this section.*

4 **Sec. 9.** NRS 445B.105 is hereby amended to read as follows:

5 445B.105 As used in NRS 445B.100 to 445B.640, inclusive, *and sections ~~¶¶~~*
6 *1.5 to 8, inclusive, of this act*, unless the context otherwise requires, the words and
7 terms defined in NRS 445B.110 to 445B.155, inclusive, *and sections ~~¶¶~~ 1.5 to 5,*
8 *inclusive, of this act* have the meanings ascribed to them in those sections.

9 **Sec. 10.** NRS 445B.460 is hereby amended to read as follows:

10 445B.460 1. If, in the judgment of the Director, any person is engaged in or
11 is about to engage in any act or practice which constitutes or will constitute a
12 violation of any provision of NRS 445B.100 to 445B.640, inclusive, *and sections*
13 *~~¶¶~~ 1.5 to 8, inclusive, of this act*, or any rule, regulation, order or operating permit
14 issued pursuant to NRS 445B.100 to 445B.640, inclusive, *and sections ~~¶¶~~ 1.5 to 8,*
15 *inclusive, of this act*, the Director may request that the Attorney General apply to
16 the district court for an order enjoining the act or practice, or for an order directing
17 compliance with any provision of NRS 445B.100 to 445B.640, inclusive, *and*
18 *sections ~~¶¶~~ 1.5 to 8, inclusive, of this act*, or any rule, regulation, order or
19 operating permit issued pursuant to NRS 445B.100 to 445B.640, inclusive *~~¶~~, and*
20 *sections ~~¶¶~~ 1.5 to 8, inclusive, of this act.*

21 2. If, in the judgment of the control officer of a local air pollution control
22 board, any person is engaged in or is about to engage in such an act or practice, the
23 control officer may request that the district attorney of the county in which the act
24 or practice is being engaged in or is about to be engaged in apply to the district
25 court for such an order.

26 3. Upon a showing by the Director or the control officer that a person has
27 engaged in or is about to engage in any such act or practice, a permanent or
28 temporary injunction, restraining order or other appropriate order may be granted
29 by the court.

30 **Sec. 11.** NRS 445B.470 is hereby amended to read as follows:

31 445B.470 1. A person shall not knowingly:

32 (a) Violate any applicable provision, the terms or conditions of any permit or
33 any provision for the filing of information;

34 (b) Fail to pay any fee;

35 (c) Falsify any material statement, representation or certification in any notice
36 or report; or

37 (d) Render inaccurate any monitoring device or method,

38 *↪ required pursuant to the provisions of NRS 445B.100 to 445B.450, inclusive,*
39 *and sections ~~¶¶~~ 1.5 to 8, inclusive, of this act*, or 445B.470 to 445B.640, inclusive,
40 *and sections ~~¶¶~~ 1.5 to 8, inclusive, of this act*, or any regulation adopted pursuant
41 to those provisions.

42 2. Any person who violates any provision of subsection 1 shall be punished
43 by a fine of not more than \$10,000 for each day of the violation.

44 3. The burden of proof and degree of knowledge required to establish a
45 violation of subsection 1 are the same as those required by 42 U.S.C. § 7413(c), as
46 that section existed on October 1, 1993.

47 4. If, in the judgment of the Director of the Department or the Director's
48 designee, any person is engaged in any act or practice which constitutes a criminal
49 offense pursuant to NRS 445B.100 to 445B.640, inclusive, *and sections ~~¶¶~~ 1.5 to*
50 *8, inclusive, of this act*, the Director of the Department or the designee may request
51 that the Attorney General or the district attorney of the county in which the criminal
52 offense is alleged to have occurred institute by indictment or information a criminal
53 prosecution of the person.

5. If, in the judgment of the control officer of a local air pollution control board, any person is engaged in such an act or practice, the control officer may request that the district attorney of the county in which the criminal offense is alleged to have occurred institute by indictment or information a criminal prosecution of the person.

Sec. 12. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310 and 704.7318:

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 700,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act* and the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 700,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, *and sections 1.5 to 8, inclusive, of this act* and 445B.500 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act*, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act*. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred and must be accounted for separately in the fund. A school

district may spend the money received pursuant to this section only in accordance with an annual spending plan that is approved by the local air pollution control board and shall submit an annual report to that board detailing the expenditures of the school district under the plan. A local air pollution control board shall approve an annual spending plan if the proposed expenditures set forth in the plan are reasonable and limited to:

(a) Programs of education on topics relating to air quality; and

(b) Projects to improve air quality, including, without limitation, the purchase and installation of equipment to retrofit school buses of the school district to use biodiesel, compressed natural gas or a similar fuel formulated to reduce emissions from the amount of emissions produced by the use of traditional fuels such as gasoline and diesel fuel,

which are consistent with the state implementation plan adopted by this State pursuant to 42 U.S.C. §§ 7410 and 7502.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. As used in this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

Sec. 13. 1. The Division of Environmental Protection of the State Department of Conservation and Natural Resources, in its role as lead agency on behalf of this State designated as required in section 4.2.1 of Appendix D to the Partial Consent Decree, shall, upon a determination of Beneficiary status pursuant to section 4.0 of Appendix D to the Partial Consent Decree, prepare and submit a Beneficiary Mitigation Plan as required by section 4.1 of Appendix D to the Partial Consent Decree which includes, without limitation, those provisions of sections ~~2.5~~ **1.5** to 8, inclusive, of this act which enact the intent of the Legislature pursuant to section 6 of this act, and to the extent that such provisions are permissible under the requirements of the Partial Consent Decree and the Second Partial Consent Decree.

2. The Division of Environmental Protection of the State Department of Conservation and Natural Resources, when providing input relevant to the development of a Draft National ZEV Investment Plan pursuant to section 2.4 of Appendix C to the Partial Consent Decree, shall advocate for and encourage inclusion in the National ZEV Investment Plan the construction of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations which enact the intent of the Legislature pursuant to section 6 of this act, to the extent that such construction is permissible under the requirements of the Partial Consent Decree and the Second Partial Consent Decree.

3. As used in this section:

(a) "Beneficiary" has the meaning ascribed to it in section 1.1 of Appendix D to the Partial Consent Decree.

1 (b) “Beneficiary Mitigation Plan” means the submittal required of a
2 Beneficiary pursuant to section 4.1 of Appendix D to the Partial Consent Decree.

3 (c) “Draft National ZEV Investment Plan” means a draft of the National ZEV
4 Investment Plan, which is required to be submitted to the Environmental Protection
5 Agency pursuant to section 2.4 of Appendix C to the Partial Consent Decree.

6 (d) “National ZEV Investment Plan” has the meaning ascribed to it in section
7 1.6 of Appendix C to the Partial Consent Decree.

8 (e) “Partial Consent Decree” means Partial Consent Decree, In re Volkswagen
9 “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation, No.
10 MDL No. 2672 CRB, (N.D. Cal. Sept. 30, 2016).

11 (f) “Second Partial Consent Decree” means Second Partial Consent Decree, In
12 re Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability
13 Litigation, No. MDL No. 2672 CRB, (N.D. Cal. Dec. 20, 2016).

14 **Sec. 14.** The provisions of subsection 1 of NRS 218D.380 do not apply to
15 any provision of this act which adds or revises a requirement to submit a report to
16 the Legislature.

17 **Sec. 15.** This act becomes effective upon passage and approval.