

**MINUTES OF THE
SENATE COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eightieth Session
February 7, 2019**

The Senate Committee on Growth and Infrastructure was called to order by Chair Yvanna D. Cancela at 1:36 p.m. on Thursday, February 7, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Yvanna D. Cancela, Chair
Senator Chris Brooks, Vice Chair
Senator Moises Denis
Senator Kelvin Atkinson
Senator Pat Spearman
Senator Joseph P. Hardy
Senator James A. Settlemeyer
Senator Scott Hammond

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Policy Analyst
Darcy Johnson, Committee Counsel
Tammy Lubich, Committee Secretary

OTHERS PRESENT:

Jeffrey Kinder, P.E., Deputy Administrator, Division of Environmental Protection,
Department of Conservation and Natural Resources
Charlene Albee, Division Director, Air Quality Management Division, Washoe
County Health District
John Fudenberg, D-ABMDI, Office of the Coroner/Medical Examiner, Clark
County
Robert J. Tekniepe, Ph.D., Principal Management Analyst, Department of Air
Quality, Clark County
David W. Johnson, Manager, Automotive Services, Clark County

Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson
Steve K. Walker, Truckee Meadows Water Authority
Kelly Crompton, Government Affairs Officer, Office of Administrative Services, City of Las Vegas
Omar Saucedo, Public Affairs, Las Vegas Valley Water District; Southern Nevada Water Authority
Zac Haffner, Maintenance/Operations Manager, City of Reno
David Gonzales, CFPF, Equipment Services Superintendent, Community Services Department, Washoe County
Kyle Davis, Nevada Conservation League
James Brandmueller, Manager, Government Relations and Public Policy, Advanced Refining Concepts, LLC

CHAIR CANCELA:

We will begin the hearing on Senate Bill (S.B.) 42.

SENATE BILL 42: Repeals provisions requiring certain fleets of motor vehicles to use alternative fuels, clean vehicles or vehicles that use alternative fuels. (BDR 43-361)

JEFFREY KINDER, P.E. (Deputy Administrator, Division of Environmental Protection, Department of Conservation and Natural Resources)

The Nevada Department of Environmental Protection (NDEP) proposes to repeal *Nevada Revised Statutes* (NRS) 486A. This program is commonly referred to as the Alternative Fuels Program (AFP). Enacted 28 years ago, this program has outlived its benefit to Nevada's air quality and presents unnecessary cost and logistical burdens on public fleets in Washoe and Clark Counties without any quantifiable benefits to air quality.

Nevada Revised Statutes 486A was enacted in 1991 to address elevated carbon monoxide levels in Clark and Washoe Counties. These counties struggled to meet the carbon monoxide National Ambient Air Quality Standards (NAAQS) since the 1970s. In the early 1990s, support for certain alternative fuels was an effort to increase energy and national security by reducing reliance on foreign oil and encouraging use of biodiesel, natural gas, ethanol and other domestic fuel sources. These are still the goals, but the program only applies to 20 public fleets in Clark and Washoe Counties. This amounts to less than 1 percent of the total vehicles circulating in these counties and has no measureable impact on air

quality. Stringent vehicle emission standards and requirements for cleaner fuels have contributed significantly to the improvement in carbon monoxide levels. These standards apply to all fuels and fleets. As of 2010, all areas in Nevada have met and continue to meet the carbon monoxide NAAQS despite continued growth.

Due to new vehicle emission standards, new model vehicles are approximately 99 percent cleaner than the 1970s models for common pollutants such as carbon monoxide. The Cleaner Burning Gasoline Wintertime Program in Clark County and the Oxygenated Fuels Program in Washoe County, with other local fuel programs, have been discontinued due to the improvements in air quality. These changes have not resulted in air quality degradation. While the AFP benefits are not evident, the requirement imposed by NRS 486A have created cost and logistical burdens on public fleets. Between 2010 and 2018 there have been nine variances approved by the State Environmental Commission (SEC). These variances included the lack of availability of alternative fuels or vehicles using alternative fuel, financial hardships due to increased cost of alternative fuels and lack of infrastructure. For example, several years ago, Boulder City needed to replace their onsite storage tanks for biodiesel to comply with the program. Their fleet of 56 vehicles operating on biodiesel had to make a 56 mile roundtrip just to refuel. In addition, a \$200,000 budget for the new tank was required for an alternative fuel that contains 5 percent biodiesel and 95 percent petroleum diesel.

After granting a variance to Washoe County in 2018, the SEC members requested NDEP to explore an effective statutory update that took into account improvements of vehicle production standards and cleaner fuels. Senate Bill 42 is the result of that effort.

The Washoe County Air Quality Management Division, Clark County Department of Air Quality, and additional representatives of public fleets in Washoe and Clark Counties have expressed their support for this legislation. Additional information can be found on the NDEP S.B. 42 Fact Sheet ([Exhibit C](#)).

CHARLENE ALBEE (Division Director, Air Quality Management Division, Washoe County Health District)

The Washoe County Air Quality Management Division, Health District is in support of the language in S.B. 42 and recognizes that the AFP is considered a legacy program. This program provided significant emission reductions as a

bridge program until the federal Tailpipe Emission Standards were able to clean up the vehicles. We supported a waiver for the Washoe County fleets since we were not seeing any significant emission reductions from the program. At this point in time, Washoe County is at 100 percent of the ozone standard. In the future, we would strongly support a program similar to this bill that would promote inclusion of electric vehicles in the fleet program.

SENATOR HARDY:

What do you mean by including electric vehicles?

Ms. ALBEE:

As emission standards are getting better, we are starting to see the increase in electric vehicles being available for purchase to the public with low or zero emissions. With the funding that is now being seen because of the Nevada Diesel Emission Mitigation Fund–VW Settlement and Electrify America LLC, there are grants through the Governor's Office of Energy. That allows us to place the infrastructure for more accessible charging systems.

SENATOR HARDY:

Is this in S.B. 42?

Ms. ALBEE:

No.

SENATOR BROOKS:

Is there anything in S.B. 42 that reduces the requirements or the ability of your department to enforce any other air quality issues or is S.B. 42 just removing the language requiring a certain type of fuel?

Mr. KINDER:

Senate Bill 42 does not change or impact the way the air program does business. This is simply a repeal of an outdated program that has become obsolete.

SENATOR SPEARMAN:

Will anything in S.B. 42 hinder the progress of a privately owned business or will it be benign to that particular industry?

MR. KINDER:

This will have no impact on private fleets. This program only affected public fleets in Clark and Washoe Counties.

SENATOR DENIS:

By repealing S.B. 42, will it stop a fleet from using alternative fuels and are they no longer mandated to use alternate fuels?

MR. KINDER:

A fleet could certainly continue using an alternative fuel or adapt to a more evolving technology.

SENATOR BROOKS:

In NRS 486A.010 in the legislative findings there is a three part statement. The first two paragraphs are still true to this day and still give guidance on what the future vehicles would be. What is the thought process in removing the legislative findings, as well as the definitions and the mandate for certain types of fuels?

MR. KINDER:

I appreciate the legislative declaration that is in NRS 486A, the air program is housed in NRS 445B, which also has the legislative declaration that is much broader than the scope of NRS 486A, so there is still that direction from the Legislature in operating the air program.

SENATOR CANCELA:

Anyone in support of S.B.42?

JOHN FUDENBERG, D-ABMDI (Office of the Coroner/Medical Examiner, Clark County):

Clark County supports S.B. 42.

ROBERT J. TEKNIEPE, PH.D. (Principal Management Analyst, Department of Air Quality, Clark County):

The Clark County Department of Air Quality (Department) is responsible for protecting the public health of approximately 2 million people in southern Nevada by designing, adopting and implementing rules, programs and policies to expeditiously meet the NAAQS for designated air pollutants. An example would be for ozone, carbon monoxide and particulate matter. To accomplish this, the

Department prepares State Implementation Plans (SIPs) and submits them to the U.S. Environmental Protection Agency for areas within Clark County that have been designated as nonattainment or maintenance of NAAQS. The Department currently has three federally approved and enforceable SIPs, none of which contain the AFP as a primary or secondary pollution control measure.

While repealing the provisions of NRS 486A may result in an increase in mobile source emissions, the Department considers the increase negligible. Therefore, the Department has concluded that S.B. 42 will have no significant adverse effect on any current control measures or contingency measures contained in any Clark County SIP, and supports the repeal of the outdated AFP codified in NRS 486A.

DAVID W. JOHNSON (Manager, Automotive Services, Clark County):
Nevada Revised Statutes 486A was originally passed to address the issue of carbon monoxide nonattainment in Clark and Washoe Counties in 1991. Washoe and Clark Counties resolved that issue in 2008 and 2010 respectively. Due to financial hardships and the unavailability of alternative fuels, fleets have struggled to meet the requirements of NRS 486A.

Some reasons for this is a diesel engine vehicle costs approximately \$6,000 more than a conventional unleaded engine vehicle. A hybrid vehicle costs approximately \$4,000 and plug-in hybrids can cost approximately \$10,000 more than conventional unleaded vehicle engines. This puts a severe strain on the monetary resources, when replacing aging vehicles in the government fleets, and can result in fleets spending hundreds of thousands of dollars a year in an attempt to comply with this program.

When it comes to alternative fuel availability, biodiesel and GDiesel are not always available. The national formula for unleaded fuel was changed by the U.S. Environmental Protection Agency in January 2017 to the California formula, and there is no cleaner burning unleaded fuel available today.

The technology that existed in the 1980s and 1990s compared to the technology that exists today is astronomically different. With cleaner burning fuels and stricter emission standards, the vehicles of today have greatly reduced the amount of emissions in the exhaust of motor vehicles.

The program created under NRS 486A can no longer quantify any reduction in vehicle emissions. When you look at the fleets that are regulated under this program, they make up less than 1 percent of the vehicles that are licensed in the respective counties, that meet the parameters of this program. At less than 1 percent, is this program really reducing emissions in the respective counties? Again, this entire program was established to reduce carbon monoxide, which has not been an issue in either county for years. By retiring this program, it will allow the government fleets the flexibility that is needed to adhere to budgetary constraints and operational needs, while still adhering to the current regulations and programs that promote green technologies. I believe the government fleets will continue to lead the way in advancement of alternative fuels and continue to use the rapidly evolving green technology as it becomes available.

SENATOR ATKINSON:

Is this a national movement and are there other states looking at such legislation?

MR. KINDER:

I am not aware of other programs that are similar to Nevada; however, there were two local programs which were removed.

MIKE CATHCART (Business Operations Manager, Finance Department, City of Henderson):

The City of Henderson is in support of S.B. 42 and in support of the flexibility for purchases in the future. The City of Henderson uses biodiesel as our alternative fuel and many of those vehicles are 2008 or older. It is time to start replacing those vehicles and with the repeal of NRS 486A, we believe we will be able to replace many of those vehicles with smaller gasoline powered vehicles with the new emissions standards that would be just as efficient.

STEVE K. WALKER (Truckee Meadows Water Authority):
Truckee Meadows Water Authority supports S.B. 42.

KELLY CROMPTON (Government Affairs Officer, Office of Administrative Services, City of Las Vegas):

The City of Las Vegas is in support of S.B. 42 and has committed to more sustainable resolutions. The City has targeted its fleet to use cleaner burning fuels and to purchase fuel-efficient hybrid electric and plug-in hybrid electric vehicles.

OMAR SAUCEDO (Public Affairs, Las Vegas Valley Water District; Southern Nevada Water Authority):

The Las Vegas Valley Water District and Southern Nevada Water Authority are in support of S.B. 42.

ZAC HAFFNER (Maintenance/Operations Manager, City of Reno):

The City of Reno wants to share a couple of pieces of information that we have had to deal with on a daily operational basis related to this legislation.

Recently, the California reformulated gasoline, which was mentioned earlier, was one of the fuels that was used by us to be in compliance with this legislation.

When the California reformulated gasoline became the standard for the nation, we had to go back and look at the standard. The NDEP did a great job in reaching out to the fleets and asking what their thoughts were. The majority of the fleet managers across the State wanted to keep this legislation, because they want the cleanest burning, lowest polluting vehicles available. However, two years later, we are finding it is very difficult and we do not want to be in a position to have to buy diesel vehicles. The diesel vehicles are more expensive to buy, costly to maintain and not as good for the environment as a gasoline alternative. The City of Reno fleet is retiring diesel vehicles that were purchased in the mid-2000s to comply with this standard. When California's reformulated gasoline was available, it was available only from California. For the City of Reno to get that fuel, they had to work with fuel vendors to get big rigs to drive over the pass to pick up the fuel and bring it back. This is not good for emissions no matter what kind of fuel is being used. The City of Reno is working with our Sustainability Manager to make sure we are running as green as possible given the availability for vehicles.

DAVID GONZALES, CPFP (Equipment Services Superintendent, Community Services Department, Washoe County):

Washoe County supports the NDEP request to repeal the alternative fuels program. Washoe County is one of the government agencies that was granted a variance from the program due to the lack of the availability of an alternative diesel fuel, which resulted in a financial hardship for some of our user departments. The lack of alternative fuels in our area, the infrastructure to support those fuels and the lack of alternative fuel vehicles available to

purchase from the State vehicle contract make it nearly, if not totally, impossible to remain compliant in the future.

KYLE DAVIS (Nevada Conservation League):

We certainly understand that the program is not meeting the goals as it was intended when it was first put into place. Our hope as we work on these issues this Session, is that this is the beginning of the conversation on how we transition autos to be cleaner. The fact is that more than half of the greenhouse gases in our State come from the transportation sector. Figuring out ways to reduce that pollution is going to be very important. The legislation finding in this bill still remains today and the public fleets are a way that we can reduce our pollution output. It is encouraging to hear it is still the goal of the local governments that operate these fleets to move in the direction to work on these issues and find new and better ways to reduce pollution from the transportation sector that hits our communities the hardest. We look forward to working with this Committee, as well as the NDEP, on coming up with solutions in the near future.

JAMES BRANDMUELLER (Manager, Government Relations and Public Policy, Advanced Refining Concepts, LLC):

For clarity I am not either in favor of or opposed to S.B. 42.

CHAIR CANCELA:

For clarity, you are not testifying in opposition, you wish to testify as neutral to S.B. 42. Is this more accurate?

MR. BRANDMUELLER:

Yes. I have a letter ([Exhibit D](#)) from our managing partner explaining our issue on S.B. 42.

Our concern is as a business that produces alternative fuels, that has just begun worldwide distribution of our technology, the definition part of NRS 486A is critically important to us. Being recognized by the State as an alternative fuel carries a tremendous amount of weight worldwide for our company.

We would like to request that the Committee consider either leaving the definitions of the alternative fuels in NRS 486A or placing that somewhere else in the NRS.

Senate Committee on Growth and Infrastructure
February 7, 2019
Page 10

SENATOR BROOKS:

Which particular definition are you most concerned about? Is it NRS 486A.030 where it defines alternative fuel or where it defines manufactured?

MR. BRANDMUELLER:

We are defined as an alternative fuel and that is the critical part that applies to us.

CHAIR CANCELA:

The hearing on S.B. 42 is closed. There being no further business before this Committee the meeting is adjourned at 2:06 p.m.

RESPECTFULLY SUBMITTED:

Tammy Lubich,
Committee Secretary

APPROVED BY:

Senator Yvanna D. Cancela, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	6		Attendance Roster
S.B. 42	C	2	Jeffrey Kinder, P.E., Deputy Administrator, Division of Environmental Protection, Department of Conservation and Natural Resources	Fact Sheet
S.B. 42	D	2	James Brandmueller, Manager, Government Relations and Public Policy Advanced Refining Concepts, LLC	Letter