

**THE ONE HUNDRED AND SEVENTEENTH DAY**

---

CARSON CITY (Friday), May 29, 2015

Assembly called to order at 2:44 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Dr. Ken Haskins.

Our heavenly Father, we invoke Your much needed presence. We need Your light to guide us. We need Your strength to push forward. We need Your love to bring us together. Be with us and bless our efforts, I pray in Jesus' Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Paul Anderson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

**REPORTS OF COMMITTEES**

*Mr. Speaker:*

Your Committee on Health and Human Services, to which was referred Senate Bill No. 489, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES OSCARSON, *Chair*

*Mr. Speaker:*

Your Committee on Judiciary, to which was referred Assembly Bill No. 488, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 296, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRA HANSEN, *Chair*

*Mr. Speaker:*

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 360, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

LYNN D. STEWART, *Chair*

*Mr. Speaker:*

Your Committee on Transportation, to which was referred Senate Bill No. 324, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JIM WHEELER, *Chair*

*Mr. Speaker:*

Your Concurrent Committee on Transportation, to which was referred Senate Bill No. 492, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JIM WHEELER, *Chair*

*Mr. Speaker:*

Your Committee on Ways and Means, to which was referred Senate Bill No. 69, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAUL ANDERSON, *Chair*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bill No. 488; Senate Bills Nos. 69, 296, 324, 360, 489, 492, just reported out of committee, be placed on the Second Reading File.

Motion carried.

By the Committee on Legislative Operations and Elections:

Assembly Resolution No. 10—Designating certain members of the Assembly as regular and alternate members of the Legislative Commission for the 2015-2017 biennium.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That, pursuant to the provisions of NRS 218E.150 and the Joint Standing Rules of the Legislature, the following members of the Assembly are designated regular and alternate members of the Legislative Commission to serve until their successors are designated: Mr. John Hambrick, Mr. Ira Hansen, Mr. Lynn D. Stewart, Ms. Marilyn Kirkpatrick, Ms. Irene Bustamante Adams and Ms. Teresa Benitez-Thompson are designated as the regular Assembly members; Mr. Erven T. Nelson and Mr. Stephen H. Silberkraus are designated as the first and second alternate members, respectively, for Mr. John Hambrick; Mr. Derek Armstrong and Mr. Chris Edwards are designated as the first and second alternate members, respectively, for Mr. Ira Hansen; Mr. Glenn Trowbridge and Mr. Phillip “P.K.” O’Neill are designated as the first and second alternate members, respectively, for Mr. Lynn D. Stewart; Mr. Nelson Araujo and Mr. Edgar Flores are designated as the first and second alternate members, respectively, for Ms. Marilyn Kirkpatrick; Ms. Dina Neal and Mr. Tyrone Thompson are designated as the first and second alternate members, respectively, for Ms. Irene Bustamante Adams; and Ms. Amber Joiner and Mr. Michael C. Sprinkle are designated as the first and second alternate members, respectively, for Ms. Teresa Benitez-Thompson.

Assemblyman Stewart moved the adoption of the resolution.

Remarks by Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Most of the people on here are pretty good folks. There is one possible exception. I urge you to support the resolution.

Resolution adopted.

#### SECOND READING AND AMENDMENT

Assembly Bill No. 475.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 973.

AN ACT relating to real estate; revising provisions governing the ~~financial administration of~~ **retention and deposit of certain surplus fees by** the Real Estate Division of the Department of Business and Industry; decreasing ~~and increasing~~ certain fees charged by the Division; revising provisions governing certain licenses issued by the Division; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~[ Under existing law, money collected by the Real Estate Division of the Department of Business and Industry must be deposited in the State General Fund and any money required for the administration of the Division must be legislatively appropriated from the State General Fund in the same manner as all other legislative appropriations. (NRS 116A.220, 119.118, 645.140, 645C.240, 645D.140, 645H.350) Section 1 of this bill creates an Account for Real Estate Administration in the State General Fund to pay for administrative expenses of the Division. Sections 1, 5, 7, 10 and 12 of this bill provide that all money collected by the Division must be credited to the Account for Real Estate Administration and used to pay for administrative expenses of the Division. Sections 1, 5, 7, 10 and 12 also create a reserve within the Account equal to 3 months of budgeted expenditures for the next fiscal year and provide that any surplus in the Account not needed to maintain the reserve must be deposited in the State General Fund. Section 10 provides that a certain portion of the money collected by the Commission for Common Interest Communities and Condominium Hotels must also be credited to the Account for Real Estate Administration and used to pay for administrative expenses of the Division. ]~~

Existing law provides that: (1) the initial period of licensure for an original license as a real estate broker, broker-salesperson or salesperson is 24 months beginning on the first day of the first calendar month after the original license is issued by the ~~Real Estate Division of the~~ **Real Estate Division of the Department of Business and Industry;** and (2) each subsequent period of licensure is 48 consecutive months. Existing law also provides that any other licenses issued pursuant to chapter 645 of NRS are issued for a period of 48 consecutive months. (NRS 645.780) **Sections 2 and 3** of this bill reduce the period of initial licensure for a license as a real estate broker, broker-salesperson or salesperson from 24 to 12 consecutive months and each subsequent period of licensure from 48 to 24 consecutive months. **Section 3** also decreases the period of licensure for other licenses issued by the Division from 48 to 24 consecutive months. **Section 13** of this bill provides that existing licenses issued by the Division before July 1, 2015, do not need to be renewed until the expiration date listed on the license.

**Section 4** of this bill reduces the fee for issuance or renewal of a license as a broker, broker-salesperson, salesperson or branch office and the penalty for the late filing of a renewal for such licenses. ~~[Section 4 also increases the fee for reinstatement of a real estate broker license when the licensee fails to give written notice of a change of name or business location and reinstatement of a~~

broker salesperson or salesperson license when the licensee fails to notify the Division of a change of broker within 30 days after termination by the previous broker.]

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

Section 1. NRS 645.140 is hereby amended to read as follows:

645.140 1. ~~[There is hereby created the Account for Real Estate Administration in the State General Fund. The Administrator shall administer the Account.~~

~~2. All claims against the Account must be paid as other claims against the State are paid.~~

~~3. The money deposited in or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.~~

~~4.] Except as otherwise provided in this section, [and NRS 645.314, 645.6058 and 645.842,] all fees, penalties and charges [money] received by the Division pursuant to NRS 645.410, 645.660 and 645.830 [this chapter] must be deposited with the State Treasurer for credit to the State General Fund. [Account and accounted for separately to provide the money authorized for expenditure by the Division to carry out the provisions of this chapter. At the end of each fiscal year, a reserve must be maintained in the Account for Real Estate Administration in the amount necessary to operate the Division for 3 months for the next fiscal year at the amount legislatively authorized for that fiscal year. Any surplus money from the fees collected pursuant to this chapter which is not necessary to maintain the reserve must be deposited with the State Treasurer for credit to the State General Fund.]~~

~~5. Except as otherwise provided in NRS 645.6058, the Commission and the Division shall deposit any money collected from the imposition of any administrative fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. The Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.~~

~~6.] 2. The fees received by the Division :~~

(a) From the sale of publications [.] must be retained by the Division to pay the costs of printing and distributing publications.

(b) For [for] examinations [.] must be retained by the Division to pay the costs of the administration of examinations.

Any surplus of the fees retained by the Division for the administration of examinations must be deposited with the State Treasurer for credit to the State General Fund.

[2.] 3. Money for the support of the Division must be provided by direct legislative appropriation, and be paid out on claims as other claims against the State are paid.

~~3. Account.~~

~~7.4~~ **4.** Each member of the Commission is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Commission, while engaged in the business of the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission, while engaged in the business of the Commission. The rate must not exceed the rate provided for state officers and employees generally.

~~4.87~~ **5.** While engaged in the business of the Commission, each employee of the Commission is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

**Sec. 2.** NRS 645.490 is hereby amended to read as follows:

645.490 1. Upon satisfactorily passing the written examination and upon complying with all other provisions of law and conditions of this chapter, a license shall thereupon be granted by the Division to the successful applicant therefor as a real estate broker, broker-salesperson or salesperson, and the applicant, upon receiving the license, may conduct the business of a real estate broker, broker-salesperson or salesperson in this State.

2. The Division shall issue licenses as a real estate broker, broker-salesperson or salesperson to all applicants who qualify and comply with all provisions of law and all requirements of this chapter.

3. Except as otherwise provided in NRS 645.785:

(a) An original license as a real estate broker, broker-salesperson or salesperson must be renewed with the Division before the expiration of the initial license period of ~~24~~ **12** consecutive months as prescribed in NRS 645.780; and

(b) Thereafter, the license must be renewed with the Division before the expiration of each subsequent license period of ~~48~~ **24** consecutive months as prescribed in NRS 645.780.

**Sec. 3.** NRS 645.780 is hereby amended to read as follows:

645.780 1. Each license issued under the provisions of this chapter expires at midnight on the last day of the last month of the applicable license period for the license.

2. The initial license period for an original license as a real estate broker, broker-salesperson or salesperson is a period of ~~24~~ **12** consecutive months beginning on the first day of the first calendar month after the original license is issued by the Division. Thereafter, each subsequent license period is a period of ~~48~~ **24** consecutive months beginning on the first day of the first calendar month after a renewal of the license is issued by the Division for the subsequent license period.

3. For all other licenses, the license period is a period of ~~48~~ **24** consecutive months beginning on the first day of the first calendar month after the license or any renewal of the license is issued by the Division, unless a specific statute:

(a) Provides for a different license period; or

(b) Expressly authorizes a different license period to be provided for by regulation.

4. The Division may:

(a) Create and maintain a secure website on the Internet through which each license, permit, certificate or registration issued pursuant to the provisions of this chapter may be renewed; and

(b) For each license, permit, certificate or registration renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

**Sec. 4.** NRS 645.830 is hereby amended to read as follows:

645.830 1. The following fees must be charged by and paid to the Division: ~~[Subject to the provisions of this chapter, the Division shall collect the following fees at such times and upon such conditions as it may provide by regulation.]~~

For each original real estate broker's, broker-salesperson's or corporate broker's license .....	<del>[\$210-\$125]</del> <u>\$105</u>
For each original real estate salesperson's license.....	<del>[\$170-\$105]</del> <u>85</u>
For each original branch office license.....	<del>[\$240-\$140]</del> <u>120</u>
For real estate education, research and recovery to be paid at the time an application for an original license is filed.....	40
For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed .....	<del>[\$80-\$60]</del> <u>40</u>
For each renewal of a real estate broker's, broker-salesperson's or corporate broker's license .....	<del>[\$360-\$200]</del> <u>180</u>
For each renewal of a real estate salesperson's license .....	<del>[\$280-\$180]</del> <u>140</u>
For each renewal of a real estate branch office license .....	<del>[\$220-\$130]</del> <u>110</u>
For each penalty for late filing of a renewal for a broker's, broker-salesperson's or corporate broker's license .....	<del>[\$180-\$115]</del> <u>95</u>
For each penalty for late filing of a renewal for a salesperson's license .....	<del>[\$140-\$95]</del> <u>75</u>
For each change of name or address.....	20
For each transfer of a real estate salesperson's or broker-salesperson's license and change of association or employment.....	20

For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof.....	20
For each change of broker status from broker to broker-salesperson.....	20
For each change of broker status from broker- salesperson to broker.....	40
For each reinstatement to active status of an inactive real estate broker's, broker-salesperson's or salesperson's license .....	20
For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location.....	<u>30</u> <del>60</del>
For each reinstatement of a real estate salesperson's or broker-salesperson's license when he or she fails to notify the Division of a change of broker within 30 days of termination by previous broker.....	<u>30</u> <del>60</del>
For each original registration of an owner-developer.....	125
For each annual renewal of a registration of an owner- developer.....	125
For each enlargement of the area of an owner- developer's registration.....	50
For each cooperative certificate issued to an out-of- state broker licensee for 1 year or fraction thereof.....	150
For each original accreditation of a course of continuing education .....	100
For each renewal of accreditation of a course of continuing education .....	50
For each annual approval of a course of instruction offered in preparation for an original license or permit .....	100

2. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:

(a) Any university, state college or community college of the Nevada System of Higher Education.

(b) Any agency of the State.

(c) Any regulatory agency of the Federal Government.

3. The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.

**Sec. 5.** NRS 645C.240 is hereby amended to read as follows:

645C.240 1. Except as otherwise provided in subsections 2 and 3, ~~[this section]~~ all fees, penalties and other charges ~~[money]~~ received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund. ~~[Account for Real Estate Administration created by NRS 645.140 and accounted for separately to provide the money authorized for expenditure by the Division to carry out the provisions of this chapter. Any surplus money from the fees collected pursuant to this chapter which is not necessary to maintain the reserve required pursuant to NRS 645.140 must be deposited with the State Treasurer for credit to the State General Fund.]~~

2. ~~[The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. The Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.]~~

~~3.]~~ Fees received by the Division :

(a) From the sale of publications ~~[.]~~ must be retained by the Division to pay the costs of printing and distributing publications.

(b) For ~~[for]~~ examinations ~~[.]~~ must be retained by the Division to pay the costs of the administration of examinations.

Any surplus of the fees retained by the Division *for the administration of examinations* must be deposited with the State Treasurer for credit to the State General Fund.

~~3. [Account.]~~

~~4.]~~ The portion of the fees collected by the Division pursuant to NRS 645C.450 for the issuance or renewal of a certificate or license as a residential appraiser or the issuance or renewal of a certificate as a general appraiser which is used for payment of the registry fee to the **Federal** Financial Institutions Examination Council pursuant to 12 U.S.C. § 3338, must be retained by the Division for payment to the **Federal** Financial Institutions Examination Council.

4. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.

Sec. 6. NRS 645D.140 is hereby amended to read as follows:

645D.140 1. All fees, penalties and other charges ~~[Except as otherwise provided in this section, all money]~~ received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund. ~~[Account for Real Estate Administration created by NRS 645.140 and accounted for separately to provide the money authorized for expenditure by the Division to carry out the provisions of this chapter. Any surplus money from the fees collected pursuant to this chapter which is not necessary to maintain the reserve required pursuant to NRS 645.140]~~



~~must be deposited with the State Treasurer for credit to the State General Fund.]~~

2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid. The Commission and the Division shall deposit any money collected from the imposition of any administrative fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. The Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

Sec. 7. ~~[NRS 645H.350 is hereby amended to read as follows:~~

~~645H.350 [1. All fees and administrative fines] Except as otherwise provided in this section, all money received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the [State General Fund.~~

~~2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.] Account for Real Estate Administration created by NRS 645.140 and accounted for separately to provide the money authorized for expenditure by the Division to carry out the provisions of this chapter. Any surplus money from the fees collected pursuant to this chapter which is not necessary to maintain the reserve required pursuant to NRS 645.140 must be deposited with the State Treasurer for credit to the State General Fund.] (Deleted by amendment.)~~

Sec. 8. NRS 116.620 is hereby amended to read as follows:

116.620 1. Except as otherwise provided in this section and within the limits of legislative appropriations [.] and any other money available for this purpose, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 9. NRS 116A.210 is hereby amended to read as follows:

116A.210 1. Except as otherwise provided in this section and within the limits of legislative appropriations [.] and any other money available for this purpose, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

**Sec. 10.** ~~NRS 116A.220 is hereby amended to read as follows:~~

~~116A.220 1. Except as otherwise provided in subsection 2, all money received by the Commission, a hearing panel or the Division pursuant to this chapter must be deposited [into the Account for Common Interest Communities and Condominium Hotels created pursuant to NRS 116.630.] with the State Treasurer for credit to the Account for Real Estate Administration created by NRS 645.140 and accounted for separately to provide the money authorized for expenditure by the Division to carry out the provisions of this chapter. Any surplus money from the fees collected pursuant to this chapter which is not necessary to maintain the reserve required pursuant to NRS 645.140 must be deposited with the State Treasurer for credit to the State General Fund.~~

~~2. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.~~

~~3. Money for the support of the Commission and Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.] (Deleted by amendment.)~~

**Sec. 11.** NRS 116B.810 is hereby amended to read as follows:

116B.810 1. Except as otherwise provided in this section and within the limits of legislative appropriations ~~[-]~~ **and any other money available for this purpose**, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

**Sec. 12.** ~~NRS 119.118 is hereby amended to read as follows:~~

~~119.118 [All] Except as otherwise provided in NRS 119.150, all fees and charges received by the Division [shall] must be deposited in the [General~~

~~Fund in the State Treasury. Funds for the support of the Division shall be provided by direct legislative appropriation, and shall be paid out on claims as other claims against the State are paid.] *Account for Real Estate Administration created by NRS 645.140 and accounted for separately to provide the money authorized for expenditure by the Division to carry out the provisions of this chapter. Any surplus money from the fees collected pursuant to this chapter which is not necessary to maintain the reserve required pursuant to NRS 645.140 must be deposited with the State Treasurer for credit to the State General Fund.] (Deleted by amendment.)*~~

Sec. 13. Notwithstanding the amendatory provisions of sections 2 and 3 of this act, the holder of a license issued or renewed by the Real Estate Division of the Department of Business and Industry pursuant to NRS 645.490 or 645.830 before July 1, 2015, is not required to renew the license until the expiration date set forth on the license.

Sec. 14. ~~[NRS 645C.610 is hereby repealed.] (Deleted by amendment.)~~

Sec. 15. This act becomes effective ~~1,~~

~~1. Upon passage and approval for the purpose of performing any preparatory administrative tasks or adopting any regulations that are necessary to carry out the provisions of this act; and~~

~~2. On] on July 1, 2015, ~~1,~~ for all other purposes.~~

#### ~~TEXT OF REPEALED SECTION~~

~~645C.610 Disposition of money collected. If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.]~~

Assemblyman Paul Anderson moved the adoption of the amendment.

Remarks by Assemblyman Paul Anderson.

ASSEMBLYMAN PAUL ANDERSON:

Assembly Bill 475, as amended, changes the real estate licensing terms for real estate brokers and salespersons from two years to one year for initial licensure and from four years to two years for subsequent licensure. The legislation also reduces the licensing fees outlined in the bill to align with the new licensing renewal period and provides that existing licenses issued by the Real Estate Division before July 1, 2015, do not require renewal until the expiration date indicated on the license.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 103.

Bill read second time and ordered to third reading.

Senate Bill No. 128.

Bill read second time and ordered to third reading.

Senate Bill No. 291.

Bill read second time and ordered to third reading.

Senate Bill No. 292.

Bill read second time and ordered to third reading.

Senate Bill No. 338.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 987.

SENATORS SMITH, WOODHOUSE, FORD, KIHUEN, PARKS; ATKINSON, DENIS, MANENDO AND SPEARMAN

JOINT SPONSORS: ASSEMBLYMEN SPRINKLE; ELLIOT ANDERSON, ARAUJO, CARRILLO, DIAZ, FLORES, JOINER, ~~AND~~ MUNFORD AND SWANK

AN ACT relating to public schools; requiring the Director of the Office for a Safe and Respectful Learning Environment within the Department of Education to establish the Safe-to-Tell Program to enable the anonymous reporting of dangerous, violent or unlawful activity, or threats thereof, in or at a public school; prohibiting the release of records or information of the Program except under certain circumstances; creating and providing for the expenditure of money from the Safe-to-Tell Program Account; requiring the Director of the Office for a Safe and Respectful Learning Environment to post on the Internet website maintained by the Department a list of each gift or donation received for deposit in the Account and the name of each donor; creating and providing duties for the Safe-to-Tell Program Advisory Committee; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 4** of this bill requires the Director of the Office for a Safe and Respectful Learning Environment appointed pursuant to **section 4** of Senate Bill No. 504 of this Session to establish the Safe-to-Tell Program within the Office. The Safe-to-Tell Program must enable any person to anonymously report any dangerous, violent or unlawful activity which is being conducted or threatened to be conducted on the property of a public school, at an activity sponsored by a public school or on a school bus of a public school. **Section 4** provides that any information received by the Program is confidential and further provides that the Program must include methods and procedures to ensure that: (1) information reported to the Program is promptly forwarded to appropriate public safety agencies and appropriate public school administrators; and (2) the identity of a person who reports information to the Program is not known by persons operating the Program and is not disclosed to any person. Additionally, **section 4** authorizes the Director of the Office to enter into agreements with organizations to operate a hotline or call center to

receive initial reports made to the Program and forward the information contained in the reports in the required manner. **Section 4** provides that the identity of a person who reports information to the Program must remain unknown to persons employed by, contracting with, volunteering with or otherwise assisting such organizations in operating any such hotline or call center.

Under **section 5** of this bill, a person must not be compelled to produce or disclose any record or information provided to the Program except upon the motion of a defendant in a criminal action or as authorized pursuant to **section 4**. **Section 5** requires that the identity of any person who made a report to the Program be redacted from any record or information subsequently provided to the defendant, and provides that the court may subject the record or information to a protective order further redacting or otherwise limiting the use of the record or information.

**Section 6** of this bill provides that the willful disclosure of a record or information of the Safe-to-Tell Program, or the willful neglect or refusal to obey a court order relating to the Program, is punishable as criminal contempt.

**Section 6.5** of this bill creates the Safe-to-Tell Program Account in the State General Fund. The Account must be administered by the Director and money in the Account may be used only to implement and operate the Safe-to-Tell Program. **Section 6.5 also requires the Director to: (1) post on the Internet website maintained by the Department of Education a list of each gift or donation received for deposit to the Account and the name of each donor; (2) update the list annually; and (3) transmit the list to the next regular session of the Legislature or the Legislative Committee on Education, as applicable.**

**Section 7.5** of this bill establishes the Safe-to-Tell Program Advisory Committee within the Office. The Committee is required to submit a report to the Governor and the Legislature which includes information regarding the number of reports received by the Safe-to-Tell Program and any recommendations for the improvement of the Program. **Section 8** of this bill provides for the dissolution of the Committee on December 31, 2016.

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

**Section 1.** Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 to 6.5, inclusive, of this act.

**Sec. 1.3.** *As used in sections 1.3 to 6.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.5 and 1.7 of this act have the meanings ascribed to them in those sections.*

**Sec. 1.5.** *“Director” means the Director of the Office for a Safe and Respectful Learning Environment appointed pursuant to section 4 of Senate Bill No. 504 of this Session.*

**Sec. 1.7. “Safe-to-Tell Program” or “Program” means the Safe-to-Tell Program established within the Office for a Safe and Respectful Learning Environment pursuant to section 4 of this act.**

**Sec. 2. The Legislature hereby declares that it is the intent of the Legislature in enacting sections 1.3 to 6.5, inclusive, of this act to enable the people of this State to easily and anonymously provide to appropriate state or local public safety agencies and to school administrators information about dangerous, violent or unlawful activities, or the threat of such activities, conducted on school property, at an activity sponsored by a public school or on a school bus of a public school.**

**Sec. 3. The Legislature hereby finds and declares that:**

**1. The ability to anonymously report information about dangerous, violent or unlawful activities, or the threat of such activities, conducted on school property, at an activity sponsored by a public school or on a school bus of a public school is critical in preventing, responding to and recovering from such activities.**

**2. It is in the best interest of this State to ensure the anonymity of a person who reports such an activity, or the threat of such an activity, and who wishes to remain anonymous and to ensure the confidentiality of any record or information associated with such a report.**

**Sec. 4. 1. The Director shall establish the Safe-to-Tell Program within the Office for a Safe and Respectful Learning Environment. The Program must enable any person to report anonymously to the Program any dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on school property, at an activity sponsored by a public school or on a school bus of a public school. Any information relating to any such dangerous, violent or unlawful activity, or threat thereof, received by the Program is confidential and, except as otherwise authorized pursuant to paragraph (a) of subsection 2 and section 5 of this act, must not be disclosed to any person.**

**2. The Program must include, without limitation, methods and procedures to ensure that:**

**(a) Information reported to the Program is promptly forwarded to the appropriate public safety agencies and school administrators; and**

**(b) The identity of a person who reports information to the Program:**

**(1) Is not known by any person designated by the Director to operate the Program;**

**(2) Is not known by any person employed by, contracting with, serving as a volunteer with or otherwise assisting an organization with whom the Director enters into an agreement pursuant to subsection 3; and**

**(3) Is not disclosed to any person.**

**3. On behalf of the Program, the Director may enter into agreements with any organization that the Director determines is appropriately qualified and experienced, pursuant to which the organization will operate a hotline or call center that will receive initial reports made to the Program and**

*forward the information contained in the reports in the manner required by subsection 2.*

*4. The Director shall provide training regarding the Program to employees and volunteers of each public safety agency, public safety answering point, board of trustees of a school district, governing body of a charter school and any other entity whose employees and volunteers the Director determines should receive training regarding the Program.*

*5. The Director shall:*

*(a) Post information concerning the Program on an Internet website maintained by the Director; and*

*(b) Provide to each public school educational materials regarding the Program, including, without limitation, the telephone number and any other methods by which a report may be made.*

*6. As used in this section:*

*(a) "Public safety agency" has the meaning ascribed to it in NRS 239B.020.*

*(b) "Public safety answering point" has the meaning ascribed to it in NRS 707.500.*

*Sec. 5. 1. Except as otherwise provided in this section or as otherwise authorized pursuant to paragraph (a) of subsection 2 of section 4 of this act, a person must not be compelled to produce or disclose any record or information provided to the Safe-to-Tell Program.*

*2. A defendant in a criminal action may file a motion to compel a person to produce or disclose any record or information provided to the Program. A defendant in a criminal action who files such a motion shall serve a copy of the motion upon the prosecuting attorney and upon the Director, either or both of whom may file a response to the motion not later than a date determined by the court.*

*3. If the court grants a motion filed by a defendant in a criminal action pursuant to subsection 2, the court may conduct an in camera review of the record or information or make any other order which justice requires. Counsel for all parties shall be permitted to be present at every stage at which any counsel is permitted to be present. If the court determines that the record or information includes evidence that could be offered by the defendant to exculpate the defendant or to impeach the testimony of a witness, the court shall order the record or information to be provided to the defendant. The identity of any person who reported information to the Safe-to-Tell Program must be redacted from any record or information provided pursuant to this subsection, and the record or information may be subject to a protective order further redacting the record or information or otherwise limiting the use of the record or information.*

*4. The record of any information redacted pursuant to subsection 3 must be sealed and preserved to be made available to the appellate court in the event of an appeal. If the time for appeal expires without an appeal, the court shall provide the record to the Safe-to-Tell Program.*

*Sec. 6. Except as otherwise provided in section 5 of this act or as otherwise authorized pursuant to paragraph (a) of subsection 2 of section 4 of this act, the willful disclosure of a record or information of the Safe-to-Tell Program, including, without limitation, the identity of a person who reported information to the Program, or the willful neglect or refusal to obey any court order made pursuant to section 5 of this act, is punishable as criminal contempt.*

*Sec. 6.5. 1. The Safe-to-Tell Program Account is hereby created in the State General Fund.*

*2. Except as otherwise provided in subsection 4, the money in the Account may be used only to implement and operate the Safe-to-Tell Program.*

*3. The Account must be administered by the Director, who may:*

*(a) Apply for and accept any gift, donation, bequest, grant or other source of money for deposit in the Account; and*

*(b) Expend any money received pursuant to paragraph (a) in accordance with subsection 2.*

*4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.*

*5. The money in the Account does not revert to the State General Fund at the end of any fiscal year.*

*6. The Director shall:*

*(a) Post on the Internet website maintained by the Department a list of each gift, donation, bequest, grant or other source of money, if any, received pursuant to subsection 3 for deposit in the Account and the name of the donor of each gift, donation, bequest, grant or other source of money;*

*(b) Update the list annually; and*

*(c) On or before February 1 of each year, transmit the list prepared for the immediately preceding year;*

*(1) In odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and*

*(2) In even-numbered years, to the Legislative Committee on Education.*

*Sec. 7. NRS 239.010 is hereby amended to read as follows:*

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772,



200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, **and section 4 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes

of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 7.5.** 1. The Safe-to-Tell Program Advisory Committee is hereby created in the Office for a Safe and Respectful Learning Environment created by section 4 of Senate Bill No. 504 of this Session within the Department of Education.

2. The Committee consists of the following members, who must be appointed as soon as practicable after the effective date of this section but not later than July 31, 2015:

(a) The following members appointed by the Governor:

(1) One member who is a representative of a law enforcement agency in a county whose population is 700,000 or more;

(2) One member who is a representative of a law enforcement agency in a county whose population is 100,000 or more but less than 700,000;

(3) One member who is a representative of a law enforcement agency in a county whose population is less than 100,000;

(4) One member who is an employee or other representative of the Office of Suicide Prevention of the Division of Public and Behavioral Health of the Department of Health and Human Services;

(5) One member who is an employee or other representative of the Department of Public Safety;

(6) One member who is a ~~licensed teacher or~~ school counselor of a public school, as defined in NRS 385.007;

(7) One member who is a psychologist employed by a school district; and

(8) One member who is a victim's advocate, as defined in NRS 49.2545, or who the Governor determines is otherwise qualified to provide expertise in the field of providing assistance to victims;

(b) One member who is a Senator, appointed by the Majority Leader of the Senate;

(c) One member who is a Senator, appointed by the Minority Leader of the Senate;

(d) One member who is an Assemblyman or Assemblywoman, appointed by the Speaker of the Assembly;

(e) One member who is an Assemblyman or Assemblywoman, appointed by the Minority Leader of the Assembly;

(f) The Superintendent of Public Instruction, or his or her designee;

(g) The Director of the State Public Charter School Authority, appointed pursuant to NRS 386.511, or his or her designee;

(h) **One member who is a licensed teacher, appointed by the Nevada State Education Association, or its successor organization;**

**(i)** Two members appointed by the Nevada Association of School Administrators, or its successor organization, who are school administrators;

~~[(i)]~~ **(j)** One member appointed by the Nevada Association of School Superintendents, or its successor organization, who is the superintendent of a county school district; and

~~[(j)]~~ **(k)** Two members appointed by the Nevada Association of School Boards, or its successor organization.

3. To the extent practicable, the persons appointing members to the Committee shall coordinate the appointments to ensure that the members represent the geographic and ethnic diversity of this State.

4. Any vacancy occurring in the membership of the Committee must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

5. The members of the Committee serve without compensation. If sufficient money is available, members are entitled to the travel allowances provided for state officers and employees generally while attending meetings of the Committee.

6. The Committee shall hold its first meeting as soon as practicable on or after August 1, 2015. At the first meeting of the Committee, the members of the Committee shall elect a Chair.

7. The Chair of the Committee may appoint such subcommittees of the Committee as the Chair determines necessary to carry out the duties of the Committee.

8. The Committee, or any subcommittee of the Committee, may seek the input, advice and assistance of persons and organizations with knowledge, interest or expertise relevant to the duties of the Committee.

9. The Committee shall, not later than June 30, 2016, submit to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature a written report that includes, without limitation:

(a) Subject to the provisions regarding confidentiality set forth in sections 1.3 to 6.5, inclusive, of this act, information regarding the number of reports received by the Safe-to-Tell Program established pursuant to section 4 of this act and the disposition of those reports; and

(b) Recommendations, including, without limitation, any proposed legislation for the improvement of the Safe-to-Tell Program.

**Sec. 8.** 1. This section becomes effective upon passage and approval.

2. Section 7.5 of this act:

(a) Becomes effective:

(1) Upon passage and approval for the purpose of appointing the members of the Safe-to-Tell Program Advisory Committee created pursuant to that section; and

(2) On July 1, 2015, for all other purposes.

(b) Expires by limitation on December 31, 2016.

3. Sections 1 to 7, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2016, for all other purposes.

Assemblywoman Woodbury moved the adoption of the amendment.

Remarks by Assemblywoman Woodbury.

ASSEMBLYWOMAN WOODBURY:

Amendment 987 makes the following changes to the bill. It requires the Director of the Office for a Safe and Respectful Learning Environment to post a list of each grant, gift, donation, or other source of money, if any, received for deposit in the account and the name of each donor on the Department of Education's website and update the list annually. The Director is further required to report the list for the immediately preceding year to the Director of the Legislative Counsel Bureau in odd-numbered years for transmittal to the next regular session of the Legislature and in even-numbered years to the Legislative Committee on Education.

It further requires that one member of the Safe-to-Tell Advisory Committee be a licensed teacher appointed by the Nevada State Education Association, or its successor organization, in addition to the member who is a public school counselor.

It also adds Assembly members Elliot Anderson, Diaz, Flores, and Swank as joint sponsors.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 432.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 933.

AN ACT relating to education; providing for the distribution of money to public schools designated as Victory schools because they have high numbers of pupils living in poverty and received a rating indicating underperformance; requiring an assessment of the needs of the pupils at such schools; requiring Victory schools to use the money received to offer certain programs and services; authorizing the State Board of Education to withhold money if a Victory school demonstrates unsatisfactory pupil achievement and school performance; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

This bill provides for the distribution of money to schools that have high numbers of pupils living in poverty and have received one of the two lowest possible ratings indicating underperformance of a public school, as determined by the Department of Education pursuant to the statewide system of accountability for public schools, for the preceding school year, which are designated as Victory schools. This bill requires each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school to conduct an assessment of the needs of pupils at such schools and submit a comprehensive plan for meeting those needs ~~by~~ **by a certain date. This bill allows a comprehensive plan to be submitted at a later date if the school district or governing body submits to the Department a letter of intent to meet the educational needs of pupils enrolled in each Victory school operated by the school district or governing body, as applicable.** A Victory school is required to use the money distributed to the school to provide certain programs and services.

Existing law requires the principal of each school to prepare a plan to improve the achievement of the pupils enrolled in the school and submit the plan to various entities, including the Superintendent of Public Instruction and the Department of Education. (NRS 385.357) This bill requires the principal of a Victory school to include in such a plan a description of how the money distributed to the school is being used to meet the needs of the pupils at the school. This bill also requires the board of trustees of each school district in which a Victory school is designated and the governing body of each charter school which is designated as a Victory school to submit a report concerning the programs and services provided using the money distributed to the school.

This bill requires the Department of Education to contract with an independent evaluator to evaluate the effectiveness of programs and services provided pursuant to this bill and authorizes the State Board of Education to require a Victory school that demonstrates unsatisfactory pupil achievement and school performance to take corrective action. The State Board is also authorized to direct the Department of Education to withhold money if unsatisfactory pupil achievement and school performance continues.

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

**Section 1.** The Legislature finds and declares that:

1. It is the public policy of this State to provide each pupil enrolled in a public school with high-quality instruction.

2. Pupils who live in poverty benefit from attending a school that has a sustained focus on improving pupil achievement using methods that take into account a variety of factors that influence pupil achievement.

3. Pupils who live in poverty should be provided with services and instruction that is designed to address the needs of such pupils so that each such pupil:

(a) Reads at or above the level of the average pupil in third grade before the pupil completes third grade;

(b) Is prepared to engage in a rigorous high school curriculum upon completion of eighth grade; and

(c) Graduates from high school with the skills and attributes necessary to immediately succeed in college or a career.

4. The cost of providing additional services to pupils who live in poverty will continue to be studied with the purpose of updating the formula for funding schools as necessary.

**Sec. 2.** 1. The Department of Education shall designate a public school as a Victory school if, relative to other public schools, including charter schools, that are located in the school district in which the school is also located:

(a) A high percentage of pupils enrolled in the school live in households that have household incomes that are less than the federally designated level signifying poverty, based on the most recent data compiled by the Bureau of the Census of the United States Department of Commerce; and

(b) The school received one of the two lowest possible ratings indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools, for the immediately preceding school year.

2. The Department shall designate each Victory school for the 2015-2016 Fiscal Year on or before June 1, 2015.

3. The Department shall transfer money from the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.031 to each school district in which a Victory school is designated and each sponsor of a charter school that is designated as a Victory school on a per pupil basis. The amount distributed per pupil must be determined by dividing the amount of money appropriated to the Account by the 2015 Legislature for Victory schools by the total number of pupils who are enrolled in Victory schools statewide. After receiving money from the Account pursuant to this subsection:

(a) A school district shall distribute the money to each Victory school in the school district on a per pupil basis.

(b) A sponsor of a charter school shall distribute the money to each Victory school that it sponsors on a per pupil basis.

4. The board of trustees of each school district in which a Victory school is located and the governing body of each charter school that is designated as a Victory school shall, as soon as practicable after the school is designated as a Victory school, conduct an assessment of the needs of pupils that attend the school. The assessment must include soliciting input from the community served by the Victory school and identify any barriers to improving pupil achievement and school performance and strategies to meet the needs of pupils at the school.

5. ~~On~~ **Except as otherwise provided in subsection 7, on** or before August 15, 2015, the board of trustees of each school district in which a Victory school is designated for the 2015-2016 Fiscal Year and the governing body of each charter school that is designated as a Victory school for the 2015-2016 Fiscal Year shall submit to the Department a comprehensive plan for meeting the educational needs of pupils enrolled in each Victory school. **The board of trustees of each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school shall select at least one person who is familiar with the public schools in the school district or with the charter school, respectively, to assist with the development of the plan.** The plan must:

(a) Include appropriate means to determine the effectiveness of the plan;  
 (b) Be based on the assessment of the needs of the pupils who attend the school conducted pursuant to subsection 4;

(c) **Analyze available data concerning pupil achievement and school performance, including, without limitation, data collected and maintained in the statewide system of accountability for public schools and other pupil achievement data collected and maintained by the school district or charter school;**

(d) Include a description of the **criteria used to select entities to provide programs and services to pupils enrolled in the Victory school;**

(e) **Include a description of the** manner in which the school district or governing body will collaborate with ~~other~~ **selected** entities ~~that offer programs and services in the community~~ so that ~~those~~ **academic** programs and services **and nonacademic programs and services, including, without limitation, transportation services,** may be offered without charge to support pupils and their families within the region in which the school is located;

~~(d)~~ (f) Take into account the number and types of pupils who attend the school and the locations where such pupils reside;

~~(e) Coordinate~~

(g) **Provide for the coordination of the** existing or planned engagement of other persons who provide services in the region in which the school is located;

~~[(f) Consider and coordinate]~~

**(h) Coordinate** all funding available to each school that is subject to the plan; ~~and~~

**(i) Provide for the coordination of all available resources to each school that is subject to the plan, including, without limitation, instructional materials and textbooks;**

~~[(g)]~~ **(j)** Identify, for each school or group of schools subject to the plan, which of the measures described in subsection ~~[7]~~ **8** will be implemented. ~~[(h)]~~ **and**

**(k) Identify the person or persons selected pursuant to this subsection who assisted with the development of the plan.**

6. The Department shall review each plan submitted pursuant to subsection 5 to determine whether, or the extent to which, the plan complies with the requirements of this section and either approve or request revisions to the plan.

7. **If the board of trustees of a school district in which a Victory school is designated or the governing body of a charter school that is designated as a Victory school does not submit a comprehensive plan for meeting the educational needs of pupils enrolled in each Victory school on or before August 15, 2015, as required pursuant to subsection 5, the board of trustees of the school district or the governing body of the charter school, as applicable, may submit to the Department a letter of intent to meet the educational needs of pupils enrolled in each Victory school. The letter must include, without limitation:**

**(a) An initial assessment of the needs of the pupils who attend the school which is conducted pursuant to subsection 4;**

**(b) An analysis of available data concerning pupil achievement and school performance, including, without limitation, data collected and maintained in the statewide system of accountability for public schools and data collected and maintained by the school district or charter school; and**

**(c) A summary of activities that the board of trustees or governing body, as applicable, will take to ensure completion of the comprehensive plan required pursuant to subsection 5 by not later than September 15, 2015.**

**8.** A Victory school shall use the majority of the money distributed pursuant to subsection 3 to provide one or more of the following:

(a) A prekindergarten program free of charge, if such a program is not paid for by another grant.

(b) An expansion of full-day kindergarten classes, if such classes have not otherwise been paid for through legislative appropriation.

(c) A summer academy or other instruction for pupils free of charge at times during the year when school is not in session.

(d) Additional instruction or other learning opportunities free of charge at times of day when school is not in session.



(e) Professional development for teachers and other educational personnel concerning instructional practices and strategies that have proven to be an effective means to increase pupil achievement in populations of pupils similar to those served by the school.

(f) ~~Provide programs to recruit and retain highly effective~~ **Incentives for hiring and retaining** teachers and other **licensed** educational personnel ~~who provide any of the programs or services set forth in this subsection from the list prescribed by the State Board of Education pursuant to subsection 14.~~

(g) ~~Operate reading~~ **Employment of paraprofessionals, other educational personnel and other persons who provide any of the programs or services set forth in this subsection.**

**(h) Reading** skills centers.

~~8-9~~ **9.** A Victory school may use any money distributed pursuant to subsection 3 that is not used for the purposes described in subsection ~~7-8~~ **8** to:

- (a) Provide evidence-based social, psychological or health care services to pupils and their families, including, without limitation, wrap-around services;
- (b) Provide programs and services designed to engage parents and families;
- (c) Provide programs to improve school climate and culture;
- (d) Provide evidence-based programs and services specifically designed to meet the needs of pupils who attend the school, as determined using the assessment conducted pursuant to subsection 4; or
- (e) Any combination thereof.

~~9-10~~ **10.** A Victory school shall not use any money distributed pursuant to subsection 3 for a purpose not described in subsection ~~7-8~~ **8** or ~~8-9~~ **9.**

~~10-11~~ **11.** Any programs offered at a Victory school pursuant to subsection ~~7-8~~ **8** or ~~8-9~~ **9** must:

- (a) Be designed to meet the needs of pupils at the school, as determined using the assessment conducted pursuant to subsection 4 and to improve pupil achievement and school performance, as determined using the measures prescribed by the State Board of Education; and
- (b) Be based on scientific research concerning effective practices to increase the achievement of pupils who live in poverty.

~~11-12~~ **12.** Each plan to improve the achievement of pupils enrolled in a Victory school that is prepared by the principal of the school pursuant to NRS 385.357 must describe how the school will use the money distributed pursuant to subsection 3 to meet the needs of pupils who attend the school, as determined using the assessment described in subsection 4 and the requirements of this section.

~~12-13~~ **13.** The Department shall contract with an independent evaluator to evaluate the effectiveness of programs and services provided pursuant to this section. The evaluation must include, without limitation, consideration of the achievement of pupils who have participated in such programs and received such services. When complete, the evaluation must be provided

contemporaneously to the Department and the Legislative Committee on Education.

**14. The State Board of Education shall prescribe a list of recruitment and retention incentives that are available to the school districts and sponsors of charter schools that receive a distribution of money pursuant to this section to offer to teachers and other licensed educational personnel.**

~~13.1~~ **15.** The State Board shall require a Victory school to take corrective action if pupil achievement and school performance at the school are unsatisfactory, as determined by the State Board. If unsatisfactory pupil achievement and school performance continue, the State Board may direct the Department to withhold any additional money that would otherwise be distributed pursuant to this section.

~~14.1~~ **16.** On or before November 30, 2016, and November 30, 2017, the board of trustees of each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school shall submit to the Department and to the Legislative Committee on Education a report, which must include, without limitation:

- (a) An identification of schools to which money was distributed pursuant to subsection 3 for the previous fiscal year;
- (b) The amount of money distributed to each such school;
- (c) A description of the programs or services for which the money was used;
- (d) The number of pupils who participated in such programs or received such services;
- (e) The average expenditure per pupil for each program or service that was funded; and
- (f) Recommendations concerning the manner in which the average expenditure per pupil reported pursuant to paragraph (e) may be used to determine formulas for allocating money from the State Distributive School Account in the State General Fund.

~~15.1~~ **17.** The Legislative Committee on Education shall consider the evaluations of the independent evaluator received pursuant to subsection ~~12.1~~ **13** and the reports received pursuant to subsection ~~14.1~~ **16** and advise the State Board regarding any action the Committee determines appropriate for the State Board to take based upon that information. The Committee shall also make any recommendations it deems appropriate concerning Victory schools to the next regular session of the Legislature which may include, without limitation, recommendations for legislation.

~~16.1~~ **18.** The money distributed pursuant to subsection 3:

- (a) Must be accounted for separately from any other money received by Victory schools and used only for the purposes specified in this section;
- (b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district or the governing body of a charter school and the school district or governing body or to settle any negotiations; and

(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

~~17.1~~ **19.** Upon request of the Legislative Commission, a Victory school to which money is distributed pursuant to subsection 3 shall make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of such money.

~~18.1~~ **20.** As used in this section:

(a) “Community” includes any person or governmental entity who resides or has a significant presence in the geographic area in which a school is located or who interacts with pupils and personnel at a school, and may include, without limitation, parents, businesses, nonprofit organizations, faith-based organizations, community groups, teachers, administrators and governmental entities.

(b) “Evidence-based programs and services” means practices, interventions and services that have been proven, through scientifically based research, as defined in 20 U.S.C. § 7801(37), to be effective in improving outcomes for pupils when implemented with fidelity.

(c) “Victory school” means a school that is so designated by the Department pursuant to subsection 1.

(d) “Wrap-around services” means supplemental services provided to a pupil with special needs or the family of such a pupil that are not otherwise covered by any federal or state program of assistance.

**Sec. 3.** This act becomes effective upon passage and approval.

Assemblywoman Woodbury moved the adoption of the amendment.

Remarks by Assemblywoman Woodbury.

ASSEMBLYWOMAN WOODBURY:

Amendment 933 authorizes the submittal of a comprehensive plan in a two-part process that would involve an applicant first submitting a letter of intent on or before August 15, 2015, containing the school’s most current school improvement plan, a summary of proposed activities, a needs assessment, and an analysis of the available data from state and district sources concerning pupil achievement and school performance. The completed plan would be due September 15, 2015. The board of trustees of each school district and charter school in which a Victory school is designated shall designate at least one person who is familiar with the public and charter schools to assist with the development of the plan.

It will require the full plan to include programs and services differentiated between those that are academic and nonacademic in nature. It includes the coordination of all available resources, such as textbooks and other instructional materials, and provides for recruitment and retention incentives from the list of State Board-approved incentives for licensed educational personnel who provide for the programs and services specified in the plan. It provides the State Board prescribe a list of recruitment and retention incentives for school districts and charter schools to offer to licensed educational personnel and paraprofessionals under this program.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 483.

Bill read second time and ordered to third reading.

Senate Bill No. 491.

Bill read second time and ordered to third reading.

Senate Bill No. 498.

Bill read second time and ordered to third reading.

Senate Bill No. 507.

Bill read second time and ordered to third reading.

Assembly Bill No. 488.

Bill read second time and ordered to third reading.

Senate Bill No. 69.

Bill read second time and ordered to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Hansen moved that Senate Bill No. 296 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

#### SECOND READING AND AMENDMENT

Senate Bill No. 324.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 1010.

AN ACT relating to the Department of Transportation; authorizing the Director of the Department to issue an encroachment permit for certain discharges onto a state highway, within a right-of-way or into, onto or by way of a conveyance system; providing civil penalties for an unauthorized discharge onto a state highway, within a right-of-way or into, onto or by way of a conveyance system or for a violation of an encroachment permit issued by the Director; **creating and setting forth the duties of the Advisory Committee on Transportational Storm Water Management;** and providing other matters properly relating thereto.

#### **Legislative Counsel's Digest:**

Existing law requires a person to obtain from the Director of the Department of Transportation a permit before disturbing or digging up, or performing certain similar acts with respect to, a state highway or right-of-way. (NRS 408.423) **Section 4** of this bill prohibits a person from discharging onto a state highway, within a right-of-way or into, onto or by way of a conveyance system unless: (1) the discharge is allowed by a valid National Pollutant Discharge Elimination System permit or a valid encroachment permit issued

by the Director for the discharge; (2) the discharge is carried out in compliance with the terms of the applicable permit; and (3) the discharge is carried out in accordance with any applicable conditions, rules and regulations prescribed by the Director. In addition, **section 4** requires that if a person carries out such a discharge without adhering to the three preceding requirements, the person must, upon receipt of an order for compliance issued pursuant to **section 7** of this bill, abate, remove or remediate the discharge in a timely manner. If the person fails to abate, remove or remediate the discharge, the Director may exercise several powers of enforcement, as set forth in **sections 5-10** of this bill.

**Sections 5-10** of this bill provide certain enforcement powers to the Director relating to **section 4** and authorize the Director to: (1) enter upon any premises to investigate the source of a discharge; (2) issue orders for compliance to enforce the provisions of **section 4**; (3) seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act which violates or may violate the provisions of **section 4**; (4) impose a civil penalty of up to \$25,000 per day for violations of the provisions of **section 4**; (5) request that the Attorney General institute a criminal prosecution for a violation of the provisions of **section 4**; and (6) conduct an independent investigation of any act which violates or may violate the provisions of **section 4**. **Section 10.3 of this bill creates and sets forth the functions and duties of the Advisory Committee on Transportational Storm Water Management, an advisory body which expires by limitation on June 30, 2021.**

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** NRS 405.205 is hereby amended to read as follows:

405.205 A rural electric cooperative which has been formed pursuant to NRS 81.410 to 81.540, inclusive, may erect or bury, and thereafter maintain or operate, power lines, and may permit the maintenance and operation of telephone lines in connection therewith, along public highways, roads, streets and alleys within the area which it holds a certificate of public convenience and necessity to serve. In exercising this right, the cooperative shall not obstruct the natural and proper use of the highway, road, street or alley, and is subject to the requirements of NRS 408.423 ~~[ ]~~ **and section 4 of this act.**

**Sec. 3.** Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 3.3 to ~~4.0~~ **10.3**, inclusive, of this act.

**Sec. 3.3. “Conveyance system” means any system of drainage along or involving the roads or highways of this State, or within the rights-of-way of the Department, and designed or used to collect, contain, store or provide for the flow of surface and storm water. The term includes, without limitation, gutters, curbs, ditches, pipes, culverts, channels, catch basins, vaults, man-**

*made channels or storm drains that are owned, operated or controlled by the Department.*

*Sec. 3.5. "Discharge" means the release of any pollutant, as that term is defined in NRS 445A.400, onto any state highway, within any right-of-way or into, onto or by way of any conveyance system.*

*Sec. 4. 1. No person shall discharge or cause a discharge upon a state highway, within a right-of-way or into, onto or by way of a conveyance system unless:*

*(a) The discharge is allowed by a valid National Pollutant Discharge Elimination System permit or a valid encroachment permit issued by the Director pursuant to NRS 408.423;*

*(b) The person ensures that the discharge is carried out in compliance with the terms of the applicable permit that allows the discharge, as described in paragraph (a); and*

*(c) The person ensures that the discharge is carried out in accordance with any applicable conditions, rules and regulations prescribed by the Director.*

*2. If a person violates the provisions of subsection 1, the person shall, upon receipt of an order for compliance issued pursuant to section 7 of this act, abate, remove or remediate the discharge in a timely manner.*

*3. If a person who violates the provisions of subsection 1 fails to abate, remove or remediate the discharge in a timely manner, the Director may abate, remove or remediate the discharge. The abatement, removal or remediation of a discharge pursuant to this subsection gives the Department a right of action to recover any of the following:*

*(a) Any expenses associated with the abatement, removal or remediation.*

*(b) Attorney's fees, costs and expenses related to the abatement, removal or remediation.*

*(c) An administrative fee in an amount not to exceed \$750 for each day of noncompliance with the provisions of subsection 1, commencing on the 6th day after the person who failed to abate, remove or remediate the discharge received an order for compliance pursuant to section 7 of this act.*

*(d) A civil penalty pursuant to section 9 of this act.*

*4. The remedies provided in subsection 3 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

*5. All money obtained in accordance with this section, including, without limitation, all fees and monetary penalties imposed pursuant to this section, must be deposited in the State Highway Fund.*

*6. To enforce the provisions of this section, the Director may cooperate and coordinate with the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the Office of the Attorney General.*

**Sec. 5.** *To enforce the provisions of section 4 of this act or any rule, regulation, standard, permit or order of the Director related thereto, the Director or an authorized designee of the Director may, upon presenting proper credentials:*

*1. Enter upon any premises upon which any act in violation of section 4 of this act takes place to inspect, investigate, collect data or otherwise document the violation;*

*2. At reasonable times, have access to and copy any records required to be maintained in association with any permit issued for the purposes of section 4 of this act or with any abatement, removal or remediation of a discharge that violates the provisions of section 4 of this act;*

*3. Inspect any equipment or method for the monitoring or observation of a discharge; and*

*4. Have access to and sample any discharge onto the state highway or right-of-way which results directly or indirectly from activities of an owner or operator of a premises where the discharge originates.*

**Sec. 6.** *1. Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged or is about to engage in any act or practice which violates any rule, regulation, standard, permit or order issued by the Director for the purposes of section 4 of this act, the Director may:*

*(a) Issue an order for compliance pursuant to section 7 of this act;*

*(b) Commence a civil action pursuant to sections 8 and 9 of this act; or*

*(c) Request that the Attorney General prosecute any person who violates any provision of sections 4 to 10, inclusive, of this act.*

*2. The remedies provided in subsection 1 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

**Sec. 7.** *1. Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any rule, regulation, standard, permit or order issued by the Director to enforce the provisions of section 4 of this act, the Director or an authorized designee of the Director may issue an order for compliance which:*

*(a) Specifies the provisions of section 4 of this act, or any rule, regulation, standard, permit or order issued by the Director, alleged to be violated or about to be violated;*

*(b) Indicates the facts alleged which constitute the alleged violation;*

*(c) Prescribes the necessary corrective action to be taken and a reasonable period for completion of that corrective action; and*

*(d) Except as otherwise provided in this paragraph, is served upon the person at his or her place of business or, if that place of business is unknown, served upon the person through the post office or at his or her last known address of record. Alternatively, the order for compliance may be served*

*upon the person by sending a copy of the order to the electronic mail address of the person, if the electronic mail address of the person is known.*

*2. Any order for compliance issued pursuant to subsection 1 is final and is not subject to review unless the person against whom the order is issued, within 10 days after the date on which the order is served, requests by written petition a hearing before the Director or an authorized designee of the Director.*

*Sec. 8. 1. Except as otherwise provided in section 10 of this act, the Director may seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act or practice which violates any provision of section 4 of this act, or any rule, regulation, standard, permit or order issued pursuant thereto.*

*2. On a showing by the Director or an authorized designee of the Director that a person is engaged or is about to engage in any act or practice which violates or will violate any rule, regulation, standard, permit or order issued for the purposes of section 4 of this act, the court may issue, without bond, any prohibitory or mandatory injunctions that the facts may warrant, including, without limitation, a temporary restraining order issued ex parte, or, after notice and an opportunity for a hearing, a preliminary injunction or permanent injunction.*

*3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction pursuant to subsection 2.*

*4. A court may require the posting of a sufficient performance bond or other security interest to ensure compliance with the court order within the period prescribed.*

*5. An injunction issued pursuant to this section does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

*Sec. 9. Except as otherwise provided in sections 4 to 10, inclusive, of this act, any person who violates or aids or abets in the violation of any provision of section 4 of this act, or of any rule, regulation, standard, permit or order issued pursuant thereto, shall pay a civil penalty of not more than \$25,000 for each day of the violation. A civil penalty imposed pursuant to this section is cumulative and does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

*Sec. 10. 1. Except as otherwise provided in subsection 2, before determining whether to issue an order for compliance, commence a civil action, request that the Attorney General commence a criminal action or seek injunctive relief pursuant to sections 4 to 10, inclusive, of this act, the Director or the authorized designee of the Director shall, if practicable, conduct an independent investigation of the alleged act or practice for which the Director is making the determination.*



2. *The Director is not required to conduct an independent investigation pursuant to subsection 1 if:*

*(a) The determination of the Director to take any action specified in that subsection is based on information that is provided to the Director by a person authorized to act pursuant to a permit issued for the purposes of section 4 of this act or by a person who has carried out a discharge that is unauthorized, unlawful or otherwise impermissible pursuant to that section; or*

*(b) The alleged act or practice creates an imminent and substantial danger to the public health or the environment.*

Sec. 10.3. 1. *The Advisory Committee on Transportation Storm Water Management is hereby created.*

2. *The Advisory Committee consists of five members appointed by the Director of the State Department of Conservation and Natural Resources as follows:*

*(a) One member who represents the Associated General Contractors of America.*

*(b) One member who represents the State Department of Conservation and Natural Resources.*

*(c) One member who represents the Department of Transportation.*

*(d) One member who represents the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

*(e) One member who represents the public and who has expertise in a field that is relevant to the storm water program.*

3. *The Chair of the Advisory Committee must be the member of the Advisory Committee who is appointed to represent the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

4. *Each member of the Advisory Committee serves for a term of 3 years, beginning on July 1, and may be reappointed.*

5. *Each member of the Advisory Committee serves at the pleasure of the Director of the State Department of Conservation and Natural Resources.*

6. *A vacancy on the Advisory Committee must be filled in the same manner as the original appointment.*

7. *Members of the Advisory Committee serve without compensation and are not entitled to travel or per diem expenses.*

8. *The Advisory Committee shall meet at the call of the Chair as frequently as required to perform its duties.*

9. *The Advisory Committee shall work cooperatively with the Division of Environmental Protection of the State Department of Conservation and Natural Resources to:*

*(a) Ensure the sound implementation and functioning of the storm water program.*

*(b) Monitor the status and efficacy of the storm water program.*

10. Not less frequently than once each calendar quarter, the Advisory Committee shall report to the Department of Transportation regarding matters to include, without limitation:

(a) The activities of the Advisory Committee; and

(b) The implementation and efficacy of the storm water program.

11. Not less frequently than once each calendar quarter, the Department of Transportation shall report to the Interim Finance Committee regarding matters to include, without limitation:

(a) The activities of the Advisory Committee; and

(b) The implementation and efficacy of the storm water program.

12. As used in this section:

(a) "Advisory Committee" means the Advisory Committee on Transportational Storm Water Management created by subsection 1.

(b) "Storm water program" means the program described in sections 4 to 10, inclusive, of this act.

**Sec. 10.5.** NRS 408.020 is hereby amended to read as follows:

408.020 As used in this chapter, *unless the context otherwise requires*, the words and terms defined in NRS 408.033 to 408.095, inclusive, ~~unless the context otherwise requires,~~ *and sections 3.3 and 3.5 of this act* have the meanings ascribed to them in those sections.

**Sec. 11.** NRS 408.050 is hereby amended to read as follows:

408.050 "Encroachment" means any tower, pole, pole line, wire, pipe, pipeline, fence, billboard, approach road, driveway, stand or building, crop or crops, flora, *discharge of any kind or character* or any structure which is placed in, upon, under or over any portion of highway rights-of-way.

**Sec. 12.** (Deleted by amendment.)

**Sec. 13.** NRS 408.175 is hereby amended to read as follows:

408.175 1. The Director shall:

(a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) Appoint one Deputy Director with full authority to perform any duty required or allowed by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department. The Deputy Director described in this paragraph shall coordinate the implementation of sections 4 to 10, inclusive, of this act with the State Department of Conservation and Natural Resources.

(d) Employ such engineers, engineering and technical assistants, clerks and other personnel as in the Director's judgment may be necessary to the proper conduct of the Department and to carry out the provisions of this chapter.

2. Except as otherwise provided in NRS 284.143, the Deputy Directors shall devote their entire time and attention to the business of the office and

shall not pursue any other business or occupation or hold any other office of profit.

3. The Director may delegate such authority as may be necessary for the Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out his or her duties.

**Sec. 13.5. NRS 408.175 is hereby amended to read as follows:**

408.175 1. The Director shall:

(a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) Appoint one Deputy Director with full authority to perform any duty required or allowed by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department. ~~[(The Deputy Director described in this paragraph shall coordinate the implementation of sections 4 to 10, inclusive, of this act with the State Department of Conservation and Natural Resources.)]~~

(d) Employ such engineers, engineering and technical assistants, clerks and other personnel as in the Director's judgment may be necessary to the proper conduct of the Department and to carry out the provisions of this chapter.

2. Except as otherwise provided in NRS 284.143, the Deputy Directors shall devote their entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

3. The Director may delegate such authority as may be necessary for the Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out his or her duties.

**Sec. 14. NRS 408.210 is hereby amended to read as follows:**

408.210 1. Except as otherwise provided in NRS 484D.655, the Director of the Department of Transportation may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Office of Economic Development or the Director of the Department of Tourism and Cultural Affairs.

2. The Director of the Department of Transportation may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles

proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. ~~[The]~~ ***Except as otherwise provided in sections 4 to 10, inclusive, of this act, the*** Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of ~~[\$100]~~ ***\$750*** for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself or herself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

**Sec. 15.** NRS 408.423 is hereby amended to read as follows:

408.423 1. No state highway or right-of-way may be disturbed, dug up, crossed, encroached upon, ***discharged upon*** or otherwise used for the laying or re-laying of pipelines, ditches, flumes, sewers, poles, wires, approach roads, driveways, railways or for any other purpose, without the written permit of the Director, and then only in accordance with the conditions and regulations

prescribed by the Director. All such work must be done under the supervision and to the satisfaction of the Director. All costs of replacing the highway in as good condition as previous to its being disturbed must be paid by the persons to whom or on whose behalf such permit was given or by the person by whom the work was done.

2. In case of immediate necessity therefor, a city or town may dig up a state highway without a permit from the Director, but in such cases the Director must be first notified and the highway must be replaced forthwith in as good condition as before at the expense of such city or town.

3. The Department shall charge each applicant a reasonable fee for all administrative costs incurred by the Department in acting upon an application for a permit, including costs for the preparation and inspection of a proposed encroachment.

**Sec. 15.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.**

**Sec. 16. 1. This section and sections 1 to 13, inclusive, 14, 15 and 15.5 of this act ~~becomes~~ become effective upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act, and on July 1, 2015 ~~[-]~~, for all other purposes.**

**2. Section 13.5 of this act becomes effective on July 1, 2021.**

**3. Section 10.3 of this act expires by limitation on June 30, 2021.**

Assemblyman Wheeler moved the adoption of the amendment.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

This amendment makes two changes to Senate Bill 324. It creates the Advisory Committee on Transportational Storm Water Management to work with the Division of Environmental Protection, State Department of Conservation and Natural Resources [DCNR] regarding the implementation of storm water programs. The Advisory Committee must report at least quarterly to NDOT [Nevada Department of Transportation] regarding its activities, and NDOT must report at least quarterly to the Interim Finance Committee on the status of the implementation of the storm water program. Provisions creating the Advisory Committee expire by limitation on June 30, 2021.

Second, it requires that the Deputy Director, provided for in section 13 of the bill, coordinate implementation of the storm water program with appropriate personnel at DCNR.

Amendment adopted.

The following amendment was proposed by Assemblyman Wheeler:

Amendment No. 1011.

AN ACT relating to the Department of Transportation; authorizing the Director of the Department to issue an encroachment permit for certain discharges onto a state highway, within a right-of-way or into, onto or by way of a conveyance system; providing civil penalties for an unauthorized discharge onto a state highway, within a right-of-way or into, onto or by way of a conveyance system or for a violation of an encroachment permit issued by

the Director; **revising the qualifications of the Director;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a person to obtain from the Director of the Department of Transportation a permit before disturbing or digging up, or performing certain similar acts with respect to, a state highway or right-of-way. (NRS 408.423) **Section 4** of this bill prohibits a person from discharging onto a state highway, within a right-of-way or into, onto or by way of a conveyance system unless: (1) the discharge is allowed by a valid National Pollutant Discharge Elimination System permit or a valid encroachment permit issued by the Director for the discharge; (2) the discharge is carried out in compliance with the terms of the applicable permit; and (3) the discharge is carried out in accordance with any applicable conditions, rules and regulations prescribed by the Director. In addition, **section 4** requires that if a person carries out such a discharge without adhering to the three preceding requirements, the person must, upon receipt of an order for compliance issued pursuant to **section 7** of this bill, abate, remove or remediate the discharge in a timely manner. If the person fails to abate, remove or remediate the discharge, the Director may exercise several powers of enforcement, as set forth in **sections 5-10** of this bill.

**Sections 5-10** of this bill provide certain enforcement powers to the Director relating to **section 4** and authorize the Director to: (1) enter upon any premises to investigate the source of a discharge; (2) issue orders for compliance to enforce the provisions of **section 4**; (3) seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act which violates or may violate the provisions of **section 4**; (4) impose a civil penalty of up to \$25,000 per day for violations of the provisions of **section 4**; (5) request that the Attorney General institute a criminal prosecution for a violation of the provisions of **section 4**; and (6) conduct an independent investigation of any act which violates or may violate the provisions of **section 4**.

**Section 11.5 of this bill removes the requirement that the Director be a licensed professional engineer in this State.**

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** NRS 405.205 is hereby amended to read as follows:

405.205 A rural electric cooperative which has been formed pursuant to NRS 81.410 to 81.540, inclusive, may erect or bury, and thereafter maintain or operate, power lines, and may permit the maintenance and operation of telephone lines in connection therewith, along public highways, roads, streets and alleys within the area which it holds a certificate of public convenience and necessity to serve. In exercising this right, the cooperative shall not

obstruct the natural and proper use of the highway, road, street or alley, and is subject to the requirements of NRS 408.423 ~~[-]~~ *and section 4 of this act.*

**Sec. 3.** Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 3.3 to 10, inclusive, of this act.

**Sec. 3.3.** *“Conveyance system” means any system of drainage along or involving the roads or highways of this State, or within the rights-of-way of the Department, and designed or used to collect, contain, store or provide for the flow of surface and storm water. The term includes, without limitation, gutters, curbs, ditches, pipes, culverts, channels, catch basins, vaults, man-made channels or storm drains that are owned, operated or controlled by the Department.*

**Sec. 3.5.** *“Discharge” means the release of any pollutant, as that term is defined in NRS 445A.400, onto any state highway, within any right-of-way or into, onto or by way of any conveyance system.*

**Sec. 4. 1.** *No person shall discharge or cause a discharge upon a state highway, within a right-of-way or into, onto or by way of a conveyance system unless:*

*(a) The discharge is allowed by a valid National Pollutant Discharge Elimination System permit or a valid encroachment permit issued by the Director pursuant to NRS 408.423;*

*(b) The person ensures that the discharge is carried out in compliance with the terms of the applicable permit that allows the discharge, as described in paragraph (a); and*

*(c) The person ensures that the discharge is carried out in accordance with any applicable conditions, rules and regulations prescribed by the Director.*

**2.** *If a person violates the provisions of subsection 1, the person shall, upon receipt of an order for compliance issued pursuant to section 7 of this act, abate, remove or remediate the discharge in a timely manner.*

**3.** *If a person who violates the provisions of subsection 1 fails to abate, remove or remediate the discharge in a timely manner, the Director may abate, remove or remediate the discharge. The abatement, removal or remediation of a discharge pursuant to this subsection gives the Department a right of action to recover any of the following:*

*(a) Any expenses associated with the abatement, removal or remediation.*

*(b) Attorney’s fees, costs and expenses related to the abatement, removal or remediation.*

*(c) An administrative fee in an amount not to exceed \$750 for each day of noncompliance with the provisions of subsection 1, commencing on the 6th day after the person who failed to abate, remove or remediate the discharge received an order for compliance pursuant to section 7 of this act.*

*(d) A civil penalty pursuant to section 9 of this act.*

**4.** *The remedies provided in subsection 3 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that*

*may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

*5. All money obtained in accordance with this section, including, without limitation, all fees and monetary penalties imposed pursuant to this section, must be deposited in the State Highway Fund.*

*6. To enforce the provisions of this section, the Director may cooperate and coordinate with the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the Office of the Attorney General.*

*Sec. 5. To enforce the provisions of section 4 of this act or any rule, regulation, standard, permit or order of the Director related thereto, the Director or an authorized designee of the Director may, upon presenting proper credentials:*

*1. Enter upon any premises upon which any act in violation of section 4 of this act takes place to inspect, investigate, collect data or otherwise document the violation;*

*2. At reasonable times, have access to and copy any records required to be maintained in association with any permit issued for the purposes of section 4 of this act or with any abatement, removal or remediation of a discharge that violates the provisions of section 4 of this act;*

*3. Inspect any equipment or method for the monitoring or observation of a discharge; and*

*4. Have access to and sample any discharge onto the state highway or right-of-way which results directly or indirectly from activities of an owner or operator of a premises where the discharge originates.*

*Sec. 6. 1. Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged or is about to engage in any act or practice which violates any rule, regulation, standard, permit or order issued by the Director for the purposes of section 4 of this act, the Director may:*

*(a) Issue an order for compliance pursuant to section 7 of this act;*

*(b) Commence a civil action pursuant to sections 8 and 9 of this act; or*

*(c) Request that the Attorney General prosecute any person who violates any provision of sections 4 to 10, inclusive, of this act.*

*2. The remedies provided in subsection 1 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

*Sec. 7. 1. Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any rule, regulation, standard, permit or order issued by the Director to enforce the provisions of section 4 of this act, the Director or an authorized designee of the Director may issue an order for compliance which:*



(a) *Specifies the provisions of section 4 of this act, or any rule, regulation, standard, permit or order issued by the Director, alleged to be violated or about to be violated;*

(b) *Indicates the facts alleged which constitute the alleged violation;*

(c) *Prescribes the necessary corrective action to be taken and a reasonable period for completion of that corrective action; and*

(d) *Except as otherwise provided in this paragraph, is served upon the person at his or her place of business or, if that place of business is unknown, served upon the person through the post office or at his or her last known address of record. Alternatively, the order for compliance may be served upon the person by sending a copy of the order to the electronic mail address of the person, if the electronic mail address of the person is known.*

2. *Any order for compliance issued pursuant to subsection 1 is final and is not subject to review unless the person against whom the order is issued, within 10 days after the date on which the order is served, requests by written petition a hearing before the Director or an authorized designee of the Director.*

Sec. 8. 1. *Except as otherwise provided in section 10 of this act, the Director may seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act or practice which violates any provision of section 4 of this act, or any rule, regulation, standard, permit or order issued pursuant thereto.*

2. *On a showing by the Director or an authorized designee of the Director that a person is engaged or is about to engage in any act or practice which violates or will violate any rule, regulation, standard, permit or order issued for the purposes of section 4 of this act, the court may issue, without bond, any prohibitory or mandatory injunctions that the facts may warrant, including, without limitation, a temporary restraining order issued ex parte, or, after notice and an opportunity for a hearing, a preliminary injunction or permanent injunction.*

3. *Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction pursuant to subsection 2.*

4. *A court may require the posting of a sufficient performance bond or other security interest to ensure compliance with the court order within the period prescribed.*

5. *An injunction issued pursuant to this section does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

Sec. 9. *Except as otherwise provided in sections 4 to 10, inclusive, of this act, any person who violates or aids or abets in the violation of any provision of section 4 of this act, or of any rule, regulation, standard, permit or order issued pursuant thereto, shall pay a civil penalty of not more than \$25,000 for each day of the violation. A civil penalty imposed pursuant to*

*this section is cumulative and does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

**Sec. 10. 1.** *Except as otherwise provided in subsection 2, before determining whether to issue an order for compliance, commence a civil action, request that the Attorney General commence a criminal action or seek injunctive relief pursuant to sections 4 to 10, inclusive, of this act, the Director or the authorized designee of the Director shall, if practicable, conduct an independent investigation of the alleged act or practice for which the Director is making the determination.*

**2.** *The Director is not required to conduct an independent investigation pursuant to subsection 1 if:*

*(a) The determination of the Director to take any action specified in that subsection is based on information that is provided to the Director by a person authorized to act pursuant to a permit issued for the purposes of section 4 of this act or by a person who has carried out a discharge that is unauthorized, unlawful or otherwise impermissible pursuant to that section; or*

*(b) The alleged act or practice creates an imminent and substantial danger to the public health or the environment.*

**Sec. 10.5.** NRS 408.020 is hereby amended to read as follows:

408.020 As used in this chapter, *unless the context otherwise requires*, the words and terms defined in NRS 408.033 to 408.095, inclusive, ~~unless the context otherwise requires,~~ **and sections 3.3 and 3.5 of this act** have the meanings ascribed to them in those sections.

**Sec. 11.** NRS 408.050 is hereby amended to read as follows:

408.050 “Encroachment” means any tower, pole, pole line, wire, pipe, pipeline, fence, billboard, approach road, driveway, stand or building, crop or crops, flora, *discharge of any kind or character* or any structure which is placed in, upon, under or over any portion of highway rights-of-way.

**Sec. 11.5. NRS 408.163 is hereby amended to read as follows:**

408.163 The Director:

1. Is in the unclassified service of the State.
2. ~~[Must be a licensed professional engineer in the State.]~~
- ~~3.]~~ Must have had at least 5 years of responsible administrative experience in public or business administration.
- ~~[4.]~~ **3.** Must possess broad skills as a manager in areas related to the functions of the Department.

**Sec. 12.** (Deleted by amendment.)

**Sec. 13.** NRS 408.175 is hereby amended to read as follows:

408.175 1. The Director shall:

- (a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) ***Appoint one Deputy Director with full authority to perform any duty required or allowed by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department.***

(d) Employ such engineers, engineering and technical assistants, clerks and other personnel as in the Director's judgment may be necessary to the proper conduct of the Department and to carry out the provisions of this chapter.

2. Except as otherwise provided in NRS 284.143, the Deputy Directors shall devote their entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

3. The Director may delegate such authority as may be necessary for the Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out his or her duties.

**Sec. 14.** NRS 408.210 is hereby amended to read as follows:

408.210 1. Except as otherwise provided in NRS 484D.655, the Director of the Department of Transportation may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Office of Economic Development or the Director of the Department of Tourism and Cultural Affairs.

2. The Director of the Department of Transportation may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. ~~[The]~~ ***Except as otherwise provided in sections 4 to 10, inclusive, of this act, the*** Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the

owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of ~~[\$100]~~ **\$750** for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself or herself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

**Sec. 15.** NRS 408.423 is hereby amended to read as follows:

408.423 1. No state highway or right-of-way may be disturbed, dug up, crossed, encroached upon, ***discharged upon*** or otherwise used for the laying or re-laying of pipelines, ditches, flumes, sewers, poles, wires, approach roads, driveways, railways or for any other purpose, without the written permit of the Director, and then only in accordance with the conditions and regulations prescribed by the Director. All such work must be done under the supervision and to the satisfaction of the Director. All costs of replacing the highway in as good condition as previous to its being disturbed must be paid by the persons to whom or on whose behalf such permit was given or by the person by whom the work was done.

2. In case of immediate necessity therefor, a city or town may dig up a state highway without a permit from the Director, but in such cases the Director must be first notified and the highway must be replaced forthwith in as good condition as before at the expense of such city or town.

3. The Department shall charge each applicant a reasonable fee for all administrative costs incurred by the Department in acting upon an application for a permit, including costs for the preparation and inspection of a proposed encroachment.

**Sec. 16.** This act becomes effective on July 1, 2015.

Assemblyman Wheeler moved the adoption of the amendment.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Amendment 1011 to Senate Bill 324 removes the requirement that the Director of the Department of Transportation be a licensed professional engineer in this state.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 360.

Bill read second time and ordered to third reading.

Senate Bill No. 489.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 995.

AN ACT relating to health; requiring the licensure of peer support recovery organizations by the Division of Public and Behavioral Health of the Department of Health and Human Services and to pay an application fee for the license; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a person who wishes to operate or maintain a facility for the dependent or a medical facility to obtain a license from the Division of Public and Behavioral Health of the Department of Health and Human Services and to pay an application fee for the license. (NRS 449.030, 449.050)

**Section 6** of this bill includes a peer support recovery organization within the definition of facility for the dependent, thereby requiring peer support recovery organizations to obtain a license from the Division. **Section 4** of this bill provides that a person who holds a license as a facility for the dependent or a medical facility and employs persons to provide peer support services is not required to obtain an additional license as a peer support recovery organization. **Sections 9-11** of this bill impose certain requirements on peer support recovery organizations. **Section 14** of this bill makes certain employees of a peer support recovery organization immune from civil liability for rendering emergency care or assistance in good faith in the course of his or her employment. **Sections 15 and 17** of this bill extend certain mandatory reporting requirements to peer support recovery organizations.

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

**Section 1.** Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2.** *"Peer support recovery organization" means a person or agency which, for compensation, provides peer support services to persons who are*

*18 years of age or older and who suffer from mental illness or addiction or identify themselves as at risk for mental illness or addiction.*

**Sec. 3.** *“Peer support services” means supportive services relating to mental health, addiction or substance abuse which:*

*1. Do not require the person offering the supportive services to be licensed.*

*2. Are offered to a person in need of such services.*

*3. May include, without limitation:*

*(a) Helping to stabilize such a person;*

*(b) Helping such a person with recovery;*

*(c) Helping such a person to access community-based behavioral health care;*

*(d) Assisting such a person during a crisis situation or an intervention;*

*(e) Providing assistance with preventive care;*

*(f) Providing strategies and education relating to the whole health needs of such a person; and*

*(g) Providing encouragement, peer mentoring and training in self-advocacy and self-direction to such a person.*

**Sec. 4.** *A person who is licensed pursuant to this chapter as a facility for the dependent or a medical facility and who employs persons to provide peer support services is not required to obtain an additional license as a peer support recovery organization.*

**Sec. 5.** NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 449.0045 is hereby amended to read as follows:

449.0045 “Facility for the dependent” includes:

1. A facility for the treatment of abuse of alcohol or drugs;

2. A halfway house for recovering alcohol and drug abusers;

3. A facility for the care of adults during the day;

4. A residential facility for groups;

5. An agency to provide personal care services in the home;

6. A facility for transitional living for released offenders; ~~and~~

7. A home for individual residential care ~~}; and~~

**8. A peer support recovery organization.**

**Sec. 7.** NRS 449.030 is hereby amended to read as follows:

449.030 1. ~~No~~ *Except as otherwise provided in section 4 of this act,* **no** person, state or local government or agency thereof may operate or maintain in this State any medical facility or facility for the dependent without first obtaining a license therefor as provided in NRS 449.030 to 449.2428, inclusive ~~}, and section 4 of this act.~~

2. Unless licensed as a facility for hospice care, a person, state or local government or agency thereof shall not operate a program of hospice care without first obtaining a license for the program from the Board.

**Sec. 8.** NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.030 to 449.2428, inclusive, **and section 4 of this act** and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.030 to 449.2428, inclusive ~~{ }~~, **and section 4 of this act**.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↪ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user

of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;



(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

↪ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. As used in this section, “living unit” means an individual private accommodation designated for a resident within the facility.

**Sec. 9.** NRS 449.065 is hereby amended to read as follows:

449.065 1. Except as otherwise provided in subsections 6 and 7 and NRS 449.067, each facility for intermediate care, facility for skilled nursing, **peer support recovery organization**, residential facility for groups, home for individual residential care, agency to provide personal care services in the home and agency to provide nursing in the home shall, when applying for a license or renewing a license, file with the Administrator of the Division of Public and Behavioral Health a surety bond:

(a) If the facility, agency, **organization** or home employs less than 7 employees, in the amount of \$5,000;

(b) If the facility, agency, **organization** or home employs at least 7 but not more than 25 employees, in the amount of \$25,000; or

(c) If the facility, agency, **organization** or home employs more than 25 employees, in the amount of \$50,000.

2. A bond filed pursuant to this section must be executed by the facility, agency, **organization** or home as principal and by a surety company as surety. The bond must be payable to the Aging and Disability Services Division of the Department of Health and Human Services and must be conditioned to provide indemnification to an older patient who the Specialist for the Rights of Elderly Persons determines has suffered property damage as a result of any act or failure to act by the facility, agency, **organization** or home to protect the property of the older patient.

3. Except when a surety is released, the surety bond must cover the period of the initial license to operate or the period of the renewal, as appropriate.

4. A surety on any bond filed pursuant to this section may be released after the surety gives 30 days’ written notice to the Administrator of the Division of Public and Behavioral Health, but the release does not discharge or otherwise affect any claim filed by an older patient for property damaged as a result of any act or failure to act by the facility, agency, **organization** or home to protect the property of the older patient alleged to have occurred while the bond was in effect.

5. A license is suspended by operation of law when the facility, agency, **organization** or home is no longer covered by a surety bond as required by this section or by a substitute for the surety bond pursuant to NRS 449.067. The Administrator of the Division of Public and Behavioral Health shall give the facility, agency, **organization** or home at least 20 days’ written notice before the release of the surety or the substitute for the surety, to the effect that the

license will be suspended by operation of law until another surety bond or substitute for the surety bond is filed in the same manner and amount as the bond or substitute being terminated.

6. The Administrator of the Division of Public and Behavioral Health may exempt a ***peer support recovery organization***, residential facility for groups or a home for individual residential care from the requirement of filing a surety bond pursuant to this section if the Administrator determines that the requirement would result in undue hardship to the ***peer support recovery organization***, residential facility for groups or home for individual residential care.

7. The requirement of filing a surety bond set forth in this section does not apply to a facility for intermediate care, facility for skilled nursing, ***peer support recovery organization***, residential facility for groups, home for individual residential care, agency to provide personal care services in the home or agency to provide nursing in the home that is operated and maintained by the State of Nevada or an agency thereof.

8. As used in this section, “older patient” means a patient who is 60 years of age or older.

**Sec. 10.** NRS 449.067 is hereby amended to read as follows:

449.067 1. As a substitute for the surety bond required pursuant to NRS 449.065, a facility for intermediate care, a facility for skilled nursing, ***a peer support recovery organization***, a residential facility for groups, a home for individual residential care, an agency to provide personal care services in the home and an agency to provide nursing in the home may deposit with any bank or trust company authorized to do business in this State, upon approval from the Administrator of the Division of Public and Behavioral Health:

(a) An obligation of a bank, savings and loan association, thrift company or credit union licensed to do business in this State;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State, or guaranteed by this State, in an aggregate amount, based upon principal amount or market value, whichever is lower.

2. The obligations of a bank, savings and loan association, thrift company or credit union must be held to secure the same obligation as would the surety bond required by NRS 449.065. With the approval of the Administrator of the Division of Public and Behavioral Health, the depositor may substitute other suitable obligations for those deposited, which must be assigned to the Aging and Disability Services Division of the Department of Health and Human Services and are negotiable only upon approval by the Administrator of the Aging and Disability Services Division.

3. Any interest or dividends earned on the deposit accrue to the account of the depositor.

4. The deposit must be an amount at least equal to the surety bond required by NRS 449.065 and must state that the amount may not be withdrawn except by direct and sole order of the Administrator of the Aging and Disability Services Division.

**Sec. 11.** NRS 449.089 is hereby amended to read as follows:

449.089 1. Each license issued pursuant to NRS 449.030 to 449.2428, inclusive, **and section 4 of this act** expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.030 to 449.2428, inclusive, **and section 4 of this act** or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, **a peer support recovery organization**, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5(b)(2), a hospital that provides swing-bed services as described in 42 C.F.R. § 482.66 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs must include, without limitation, a statement that the facility, hospital, agency, program, **organization** or home is in compliance with the provisions of NRS 449.119 to 449.125, inclusive, and 449.174.

3. Each reapplication for an agency to provide personal care services in the home, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, **a peer support recovery organization**, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency, **organization** or home are in compliance with the provisions of NRS 449.093.

**Sec. 12.** NRS 449.119 is hereby amended to read as follows:

449.119 As used in NRS 449.119 to 449.125, inclusive, “facility, hospital, agency, program or home” means an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, **a**

*peer support recovery organization*, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5(b)(2), a hospital that provides swing-bed services as described in 42 C.F.R. § 482.66 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs.

**Sec. 13.** NRS 449.174 is hereby amended to read as follows:

449.174 1. In addition to the grounds listed in NRS 449.160, the Division may deny a license to operate a facility, hospital, agency, program or home to an applicant or may suspend or revoke the license of a licensee to operate such a facility, hospital, agency, program or home if:

(a) The applicant or licensee has been convicted of:

- (1) Murder, voluntary manslaughter or mayhem;
- (2) Assault or battery with intent to kill or to commit sexual assault or mayhem;
- (3) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;
- (4) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;
- (5) A crime involving domestic violence that is punished as a felony;
- (6) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;
- (7) Abuse or neglect of a child or contributory delinquency;
- (8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;
- (9) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
- (10) A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;
- (11) A violation of any provision of NRS 422.450 to 422.590, inclusive;
- (12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;
- (13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;
- (14) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or

(15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years;

(b) The licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime listed in paragraph (a); or

(c) The applicant or licensee has had a substantiated report of child abuse or neglect made against him or her and if the facility, hospital, agency, program or home provides residential services to children.

2. In addition to the grounds listed in NRS 449.160, the Division may suspend or revoke the license of a licensee to operate an agency to provide personal care services in the home, ~~for~~ an agency to provide nursing in the home **or a peer support recovery organization** if the licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

3. As used in this section:

(a) "Domestic violence" means an act described in NRS 33.018.

(b) "Facility, hospital, agency, program or home" has the meaning ascribed to it in NRS 449.119.

(c) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

(d) "Medicare" has the meaning ascribed to it in NRS 439B.130.

**Sec. 14.** NRS 449.194 is hereby amended to read as follows:

449.194 Any person who is employed by an agency to provide personal care services in the home **or a peer support recovery organization** who:

1. Has successfully completed a course in cardiopulmonary resuscitation according to the guidelines of the American National Red Cross or American Heart Association;

2. Has successfully completed the training requirements of a course in basic emergency care of a person in cardiac arrest conducted in accordance with the standards of the American Heart Association; or

3. Has successfully completed the training requirements of a course in the use and administration of first aid, including cardiopulmonary resuscitation, ➡ and who in good faith renders emergency care or assistance in accordance with the person's training, in the course of his or her regular employment or profession, to an elderly person or a person with a disability, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by that person in rendering that care.

**Sec. 15.** NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

***(m) Every person who operates or is employed by a peer support recovery organization, as defined in section 2 of this act.***

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

(a) Aging and Disability Services Division;

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.



**Sec. 16.** NRS 427A.175 is hereby amended to read as follows:

427A.175 1. Within 1 year after an older patient sustains damage to his or her property as a result of any act or failure to act by a facility for intermediate care, a facility for skilled nursing, a residential facility for groups, a home for individual residential care, an agency to provide personal care services in the home, an intermediary service organization, ***a peer support recovery organization*** or an agency to provide nursing in the home in protecting the property, the older patient may file a verified complaint with the Division setting forth the details of the damage.

2. Upon receiving a verified complaint pursuant to subsection 1, the Administrator shall investigate the complaint and attempt to settle the matter through arbitration, mediation or negotiation.

3. If a settlement is not reached pursuant to subsection 2, the facility, home, agency, organization or older patient may request a hearing before the Specialist for the Rights of Elderly Persons. If requested, the Specialist for the Rights of Elderly Persons shall conduct a hearing to determine whether the facility, home, agency or organization is liable for damages to the patient. If the Specialist for the Rights of Elderly Persons determines that the facility, home, agency or organization is liable for damages to the patient, the Specialist for the Rights of Elderly Persons shall order the amount of the surety bond pursuant to NRS 449.065 or the substitute for the surety bond necessary to pay for the damages pursuant to NRS 449.067 to be released to the Division. The Division shall pay any such amount to the older patient or the estate of the older patient.

4. The Division shall create a separate account for money to be collected and distributed pursuant to this section.

5. As used in this section:

(a) “Agency to provide nursing in the home” has the meaning ascribed to it in NRS 449.0015;

(b) “Agency to provide personal care services in the home” has the meaning ascribed to it in NRS 449.0021;

(c) “Facility for intermediate care” has the meaning ascribed to it in NRS 449.0038;

(d) “Facility for skilled nursing” has the meaning ascribed to it in NRS 449.0039;

(e) “Home for individual residential care” has the meaning ascribed to it in NRS 449.0105;

(f) “Intermediary service organization” has the meaning ascribed to it in NRS 449.4304;

(g) “Older patient” has the meaning ascribed to it in NRS 449.065; ~~and~~

(h) ***“Peer support recovery organization” has the meaning ascribed to it in section 2 of this act; and***

(i) “Residential facility for groups” has the meaning ascribed to it in NRS 449.017.

**Sec. 17.** NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, medication aide - certified, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, music therapist, driver of an ambulance, paramedic or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

***(l) Any person who operates or is employed by a peer support recovery organization.***

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant or medication aide - certified has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section ~~[-“agency”]~~ :

(a) “Agency to provide personal care services in the home” has the meaning ascribed to it in NRS 449.0021.

(b) “Peer support recovery organization” has the meaning ascribed to it in section 2 of this act.

**Sec. 18.** This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on October 1, 2015, for all other purposes.

Assemblyman Oscarson moved the adoption of the amendment.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

This amendment clarifies that a peer support recovery organization receive compensation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 492.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 1005.

AN ACT relating to off-highway vehicles; ~~providing a fee for the issuance of special plates to certain off-highway vehicle dealers, lessors and manufacturers by the Department of Motor Vehicles;~~ revising provisions relating to fees collected by the Department for the titling and registration of off-highway vehicles; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the registration of certain off-highway vehicles. ~~[(NRS 490.082)]~~ Existing law also ~~requires~~ **authorizes** the Department of Motor Vehicles to issue to **the owner of** an off-highway vehicle ~~dealer, long-term or short-term lessor or manufacturer a special plate, commonly known as a dealer plate, for use on certain off-highway vehicles for the purposes of display, demonstration, maintenance, sale or exchange. (NRS 490.0827, 490.125)~~ Section 2 of this bill requires the Department to charge a fee of \$12 for such a special plate, and authorizes the Department to only issue such a special plate upon a request from an off-highway vehicle dealer, long-term or short-term lessor or manufacturer. The money collected by the Department for such special plates must be deposited into the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration. a certificate of title for the vehicle under certain circumstances. (NRS 490.082)

Existing law requires the Department to deposit the fees collected for issuing a certificate of title for an off-highway vehicle into the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration. (NRS 490.084) Money in the Account must be used to pay the expenses of administering the titling and registration of off-highway vehicles. (NRS 490.085) Fees collected for the annual registration of an off-highway vehicle must be distributed as follows: (1) fifteen percent must be deposited in the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration; and (2) to the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 85 percent must be deposited into the Account for Off-Highway Vehicles. Fees in the latter Account may be used by the Commission on Off-Highway Vehicles for certain administrative costs and to award grants for certain purposes related to off-highway vehicles. (NRS 490.069) **Section 3** of this bill requires that all the money collected by the Department for titling and registration must be deposited in the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration. **Section 4** of this bill requires the Department, at least once each fiscal quarter, to transfer any amount in excess of \$150,000 from the Revolving Account into the Account for Off-Highway Vehicles for use by the Commission.

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

**Section 1.** NRS 490.070 is hereby amended to read as follows:

490.070 1. Upon the request of an off-highway vehicle dealer, the Department may authorize the off-highway vehicle dealer to receive and submit to the Department applications for the:

(a) Issuance of certificates of title and registration for off-highway vehicles; and

(b) Renewal of registration for off-highway vehicles.

2. An authorized dealer shall:

(a) Except as otherwise provided in ~~paragraph (b) and~~ subsection 4, submit to the State Treasurer for allocation to the Department ~~for to the Account for Off-Highway Vehicles created by NRS 490.069~~ all fees collected by the authorized dealer from each applicant and properly account for those fees each month;

(b) ~~Submit to the State Treasurer for deposit into the Account for Off-Highway Vehicles all fees charged and collected and required to be deposited in the Account pursuant to NRS 490.084;~~

~~—(c)—~~ Comply with the regulations adopted pursuant to subsection 5; and

~~[(d)]~~ (c) Bear any cost of equipment which is required to receive and submit to the Department the applications described in subsection 1, including any computer software or hardware.

3. Except as otherwise provided in subsection 4, an authorized dealer is not entitled to receive compensation for the performance of any services pursuant to this section.

4. An authorized dealer may charge and collect a fee of not more than \$2 for each application for a certificate of title or registration received by the authorized dealer pursuant to this section. An authorized dealer may retain any fee collected by the authorized dealer pursuant to this subsection.

5. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of:

(1) Forms for applying for the issuance of certificates of title for, or registration of, off-highway vehicles;

(2) Certificates of title and registration by the Department to each applicant whose application is approved by the Department; and

(3) Renewal notices for registrations before the date of expiration of the registrations;

(b) The renewal of registrations by mail or the Internet;

(c) The collection of a fee of not less than \$20 or more than \$30 for the renewal of a registration of an off-highway vehicle pursuant to NRS 490.082 or 490.0825;

(d) The submission by mail or electronic transmission to the Department of an application for:

(1) The issuance of a certificate of title for, or registration of, an off-highway vehicle; or

(2) The renewal of registration of an off-highway vehicle;

(e) The replacement of a lost, damaged or destroyed certificate of title or registration certificate, sticker or decal; and

(f) The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.

**Sec. 2.** ~~[NRS 490.0827 is hereby amended to read as follows:~~

~~490.0827 1. Upon issuance of an off-highway vehicle dealer's, long-term or short-term lessor's or manufacturer's license certificate pursuant to NRS 490.200 or upon the renewal of the license pursuant to NRS 490.210, the off-highway dealer, long-term or short-term lessor or manufacturer may request from the Department [shall furnish to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer] one or more special plates for use on an off-highway vehicle specified in subsection 1 of NRS 490.125. Each plate must have displayed upon it the identification number assigned by the Department to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer, and may include a different letter or symbol on the plate. The off-highway vehicle dealer's, long-term or short-term lessor's or manufacturer's special plates may be used interchangeably on that off-highway vehicle.~~

~~2. The Department, upon a request pursuant to subsection 1, shall issue to each off-highway vehicle dealer, long term or short term lessor or manufacturer a reasonable number of special plates.~~

~~3. The Department shall charge an annual fee of \$12 for each special plate issued pursuant to this section.~~

~~4. Money received by the Department pursuant to subsection 3 must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085. (Deleted by amendment.)~~

Sec. 3. NRS 490.084 is hereby amended to read as follows:

490.084 1. The Department shall determine the fee for issuing a certificate of title for an off-highway vehicle, but such fee must not exceed the fee imposed for issuing a certificate of title pursuant to NRS 482.429. Money received from the payment of the fees described in this subsection must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

2. The Commission shall determine the fee for the annual registration of an off-highway vehicle pursuant to NRS 490.082 or 490.0825, but such fee must not be less than \$20 or more than \$30. Money received from the payment of the fees described in this subsection must be distributed as follows:

~~—(a) During the period beginning on July 1, 2012, and ending on June 30, 2013:~~

~~—(1) Eighty five percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.~~

~~[(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 15 percent must be deposited into the Account for Off Highway Vehicles created by NRS 490.069.~~

~~—(b) On or after July 1, 2013:~~

~~—(1) Fifteen percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.~~

~~—(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 85 percent must be deposited into the Account for Off Highway Vehicles.]~~

Sec. 4. NRS 490.085 is hereby amended to read as follows:

490.085 1. The Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration is hereby created in the State Highway Fund.

2. ~~[The]~~ Except as otherwise provided in subsection 3, the Department shall use the money in the Account to pay the expenses of administering the provisions of this chapter relating to the titling and registration of off-highway vehicles.

3. ~~[Money in the Account must be used only for the purposes specified in subsection 2.]~~ *At least once each fiscal quarter, the Department shall transfer any amount in excess of \$150,000 in the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration into the Account for Off-Highway Vehicles created by NRS 490.069.*

4. Any money remaining in the *Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration* at the end of a fiscal year does not revert to the State Highway Fund, and the balance in the Account must be carried forward to the next fiscal year.

**Sec. 5.** This act becomes effective on July 1, 2015.

Assemblyman Wheeler moved the adoption of the amendment.

Remarks by Assemblymen Wheeler and Carlton.

ASSEMBLYMAN WHEELER:

Amendment 1005 to Senate Bill 492 removes provisions in the bill that would have required the DMV [Department of Motor Vehicles] to charge an annual fee of \$12 for each special license plate issued upon request from an off-highway vehicle [OHV] dealer, long-term or short-term lessor, or manufacturer for use on certain OHVs for the purpose of display, demonstration, maintenance, sale, or exchange. It also should remove the two-thirds requirement of the bill.

ASSEMBLYWOMAN CARLTON:

When I first read this, I was a little confused. Thank you for clarifying what this actually does. Removing the cost of the sticker—this is a self-sustaining fund; they cannot access State Highway funds. It is not allowed. How is this fund going to survive if we are not paying for stickers?

ASSEMBLYMAN WHEELER:

To my colleague from Las Vegas, the number of stickers for dealers in this particular industry was quoted in the committee at about 60. We were looking at a very small amount of money here, and it was able to be absorbed.

ASSEMBLYWOMAN CARLTON:

Once again, this was a self-sustaining fund. It was everyone paying their fair share. We heard another bill in Ways and Means about how we can get more people to buy stickers. I am just concerned that if they do not have the resources they need, Clark County or another county will end up having to subsidize them again in the future. Hopefully, that will not happen.

ASSEMBLYMAN WHEELER:

This is actually not part of the sticker program but is an actual license plate for dealers. It goes through the DMV. I think we are talking apples and oranges here.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 135.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 998.

AN ACT relating to public records; requiring the Division of State Library and Archives of the Department of Administration to develop and , under

certain circumstances, conduct a program of education and training concerning the retention and disposition of official state records for the employees of agencies, boards and commissions that are required to have a schedule approved by the Committee to Approve Schedules for the Retention and Disposition of Official State Records; requiring , under certain circumstances, the head of such an agency, board or commission to require certain employees to complete the program; requiring the head of such an agency, board or commission to issue a letter of reprimand to an employee who knowingly and willfully disposes of an official state record in a manner contrary to an approved schedule for the retention and disposition of official state records or authorizing the head of an agency, board or commission to take more severe disciplinary action against such an employee in appropriate circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires certain state agencies, boards and commissions, in cooperation with the Division of State Library and Archives of the Department of Administration, to develop a schedule for the retention and disposition of the official state records of the agency, board or commission. Existing law also requires the Division to submit the schedules to the Committee to Approve Schedules for the Retention and Disposition of Official State Records for approval. Upon approval of a schedule, existing law provides that an official state record may be disposed of only in accordance with the approved schedule. (NRS 239.077, 239.080) As recommended by the Sunset Subcommittee of the Legislative Commission, this bill requires the Division to develop ~~and conduct~~ a program of education and training concerning the retention and disposition of official state records for employees of such agencies, boards and commissions. **This bill requires the Division to conduct the program to the extent that resources are available.** This bill also requires , under certain circumstances, the head of a state agency, board or commission that is required to maintain its official state records in accordance with such an approved schedule to require certain employees to complete the program. This bill further: (1) requires the head of an agency, board or commission to issue a letter of reprimand to an employee of the agency, board or commission who knowingly and willfully disposes of an official state record in a manner contrary to the approved schedule; or (2) authorizes the head of an agency, board or commission to take more severe disciplinary action against such an employee in appropriate circumstances.

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

**Section 1.** Chapter 239 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. The Division shall develop and , to the extent that resources are available, conduct a program of education and training on the retention and disposition of official state records for the employees of each agency, board***



*and commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080. The program must include, without limitation, instruction concerning:*

*(a) The general standards of the Division for the development pursuant to NRS 239.080 of schedules for the retention and disposition of official state records;*

*(b) The specific criteria for the retention and disposition of official state records in accordance with the approved schedule applicable to the agency, board or commission by which an employee is employed; and*

*(c) Any criminal or civil penalties or other administrative or disciplinary action to which an employee may be subject as the result of the disposal of an official state record in a manner contrary to the approved schedule for the retention and disposition of official state records applicable to the agency, board or commission by which the employee is employed.*

*2. ~~The~~ Except as otherwise provided in subsection 3, the head of an agency, board or commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080 and approved by the Committee pursuant to NRS 239.077:*

*(a) Shall require each employee of the agency, board or commission, as applicable, whose duties include the management of the retention and disposal of any official state records of the agency, board or commission to complete the program of education and training on the retention and disposition of official state records that is developed and conducted by the Division pursuant to subsection 1.*

*(b) May require other employees of the agency, board or commission, as applicable, to complete the program of education and training described in paragraph (a).*

*~~(c)~~ 3. If sufficient resources are not available for the Division to conduct, in whole or in part, the program of education and training on the retention and disposition of official state records pursuant to subsection 1, the Division shall:*

*(a) Determine which heads of agencies, boards or commissions that are required to maintain official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080 and approved by the Committee pursuant to NRS 239.077 are subject to the provisions of subsection 2; and*

*(b) Notify the head of each agency, board or commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080 and approved by the Committee pursuant to NRS 239.077 whether the head of the agency, board or commission is:*

*(1) Required to comply with the provisions of paragraph (a) of subsection 2; and*

(2) Authorized to comply with the provisions of paragraph (b) of subsection 2.

4. The head of an agency, board or commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080 and approved by the Committee pursuant to NRS 239.077:

(a) Except as otherwise provided in paragraph ~~[(d)]~~ (b), shall issue a letter of reprimand to any employee of the agency, board or commission, as applicable, who knowingly and willfully disposes of an official state record of the agency, board or commission in a manner contrary to the approved schedule for the retention and disposition of the official state records of the agency, board or commission.

~~[(d)]~~ (b) In lieu of a letter of reprimand issued pursuant to paragraph ~~[(e)]~~ (a), may take more severe disciplinary action against an employee in a matter involving a repeated offense or where circumstances otherwise warrant such action.

Sec. 2. NRS 239.005 is hereby amended to read as follows:

239.005 As used in this chapter, unless the context otherwise requires:

1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Agency of the Executive Department" means an agency, board, commission, bureau, council, department, division, authority or other unit of the Executive Department of the State Government. The term does not include the Nevada System of Higher Education.

3. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

4. "Division" means the Division of State Library and Archives of the Department of Administration.

5. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State, including, without limitation, an agency of the Executive Department, or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405; or

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools.

6. "Official state record" includes, without limitation:

(a) Papers, unpublished books, maps and photographs;

(b) Information stored on magnetic tape or computer, laser or optical disc;

*(c) Materials that are capable of being read by a machine, including, without limitation, microforms and audio and visual materials; and*

*(d) Materials that are made or received by a state agency and preserved by that agency or its successor as evidence of the organization, operation, policy or any other activity of that agency or because of the information contained in the material.*

7. “Privatization contract” means a contract executed by or on behalf of a governmental entity which authorizes a private entity to provide public services that are:

(a) Substantially similar to the services provided by the public employees of the governmental entity; and

(b) In lieu of the services otherwise authorized or required to be provided by the governmental entity.

**Sec. 3.** NRS 239.080 is hereby amended to read as follows:

239.080 1. An official state record may be disposed of only in accordance with a schedule for retention and disposition which is approved by the Committee.

2. In cooperation with the Division, each agency, board and commission shall develop a schedule for the retention and disposition of each type of official state record.

3. The Division shall submit the schedules described in subsection 2 to the Committee for final approval.

~~[4. As used in this section, “official state record” includes, without limitation, any:~~

~~—(a) Papers, unpublished books, maps and photographs;~~

~~—(b) Information stored on magnetic tape or computer, laser or optical disc;~~

~~—(c) Materials which are capable of being read by a machine, including microforms and audio and visual materials; and~~

~~—(d) Materials which are made or received by a state agency and preserved by that agency or its successor as evidence of the organization, operation, policy or any other activity of that agency or because of the information contained in the material.]~~

**Sec. 4.** This act becomes effective:

1. Upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On January 1, 2016, for all other purposes.

Assemblyman Paul Anderson moved the adoption of the amendment.

Remarks by Assemblyman Paul Anderson.

ASSEMBLYMAN PAUL ANDERSON:

Assembly Bill 135, as amended, revises provisions relating to schedules for retention and disposal of official state records.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

## MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bill No. 487 be taken from its position on the General File and placed at the top of the General File. Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 487.

Bill read third time.

Remarks by Assemblymen Trowbridge, Joiner, Fiore, Araujo, Hansen, Seaman, and Wheeler.

ASSEMBLYMAN TROWBRIDGE:

Assembly Bill 487 provides that a person who has a permit to carry a concealed firearm may possess a concealed firearm inside a motor vehicle while on the property of the Nevada System of Higher Education [NSHE], a private or public school, or a child care facility if the motor vehicle is occupied or if the motor vehicle is unoccupied, the motor vehicle is locked, and the firearm is securely stored in a locked container attached to the motor vehicle.

The bill also requires the Board of Regents to prescribe rules that allow a permittee to carry a concealed firearm on NSHE property without having to obtain permission from the president of the educational institution. Any rules prescribed by the Board before, on, or after July 1, 2015, that are inconsistent with this provision are void.

ASSEMBLYWOMAN JOINER:

I rise in opposition to Assembly Bill 487. It is extremely disappointing to me that we have to continue to vote on this issue of campus carry. For me, this is a very personal vote, but it is also one that affects my constituents greatly. The University of Nevada, Reno is in my district, and I am going to take the cue from everyone on that campus who has taken a position in opposition on this issue. I am referring to the student government, the graduate student government, the Faculty Senate, the Nevada Student Alliance, and the Nevada System of Higher Education. Consistently, the folks who are affected by this law have voted no. The students of the University of Nevada, Reno have voted through their representatives, and I am going to respect their opinion and also vote no on this measure.

ASSEMBLYWOMAN FIORE:

I rise in support of Assembly Bill 487. We have had a great deal of debate on the issues covered by Assembly Bill 487, and it is now time to act. This bill safeguards both our students and their constitutional rights, and I urge all my colleagues to vote yes.

ASSEMBLYMAN ARAUJO:

I rise in opposition to Assembly Bill 487. This is the third time that we will be voting on this measure in this building. Earlier this week in committee, it was so disappointing to see so many young faces in our audience, both in southern Nevada and northern Nevada, and have administrators show up just for them not to be allowed to testify regarding this bill. We owe it to our constituents to allow them to have a say in this process. They elect us, and they have every right to share their views. For them not to be allowed to put their remarks on the record is extremely disappointing.

I hope that this body truly takes into consideration the fact that students have mobilized against this measure and have pleaded with us not to approve a measure that is going to impact them. This is not about us; it is about them. The folks who will be directly impacted by this legislation are telling us that they do not want this measure in their institutions. The educators, the professionals, are telling us they do not want this, so why are we going to force this upon them? I urge this body to please take that into consideration. Our students matter, our education professionals matter, and we have got to start listening to our constituents.

ASSEMBLYMAN HANSEN:

I rise in strong support of Assembly Bill 487. For the record, I want to make it very clear that we gave a full and fair hearing to Assembly Bill 487 the first time this came around. Both sides had exactly equal time. I worked with both the proponents and opponents to make sure that everyone had the list of speakers that they wanted. This was thoroughly and fully vetted by our committee. Rather than have a totally redundant hearing, we simply moved it.

More importantly, Mr. Speaker, the reason we should all be supporting this is our United States Supreme Court said it is a constitutional right for people to carry firearms in the United States. Normally, the universities are the ones who are the biggest and most powerful proponents of pushing our Bill of Rights. But somehow, in this case, we are supposed to say your constitutional rights end at the border of a government institution. That is one thing.

Another thing is, all the horror stories that we heard in the hearings were entirely based on hyperbole and the idea that these things could potentially happen. The campuses in the state of Utah and the state of Colorado have, in fact, had campus carry for, in one case, a decade and the horror stories we were told are going to happen on our campuses about drunk frat boys shooting up the place and so forth have not occurred. Not a single case.

I would urge my colleagues, rather than listen to the rhetoric of some uninformed young people who ought to do their homework in the other states where they have allowed this law for a long time, to see what the real results are of allowing people the right to protect themselves. I would also point out that in our audience right now is Mr. Tom Collins, whose daughter had a CCW [concealed carry weapon] permit and was not allowed to carry it on the campus and then was brutally raped. The fact is that in so many cases, firearms have been shown to deter crime. Is it just coincidental that all these horrible mass shootings that have occurred in the United States have almost all occurred in places where guns are not allowed—post offices, school campuses, universities, Virginia Tech?

I have sat through those hearings as chairman, and as chairman I have pretty much done my very best not to express my opinion, to try to be fair and unbiased, so that both sides get a fair and equal opportunity to present their case. But this is my time, here and now, to say this is the right thing to do. It is time in the state of Nevada we recognize that people who are 21 years old, who have passed the test to carry these guns, and have been shown by all sorts of studies to be safer than even the policemen who carry the firearms on the campuses now—that we allow that right for our citizens here in the state. I would urge my colleagues to stand up, quit being intimidated by theoretical probabilities or possibilities when the evidence is overwhelming that concealed weapons reduce crime, allow protections of young ladies, and is simply an individual constitutional right that we should all support. I urge this body to vote yes on Assembly Bill 487.

ASSEMBLYWOMAN SEAMAN:

I rise in strong support of Assembly Bill 487. I just want to ditto the sentiments of my colleague from the north on campus carry and say thank you for those who will support our constitutional Second Amendment right to protect ourselves, no matter where we are, if we choose to carry a weapon to protect ourselves against rape and murder anywhere that we are. Thank you for supporting this.

ASSEMBLYMAN WHEELER:

I rise in strong support of Assembly Bill 487. I want to thank my colleague from District 32 for his passionate speech, and I agree. My colleague from District 3 says that he is only getting transmissions from students who are against this. I am thinking that maybe we are getting different transmissions, different emails, and different phone calls. Mine are overwhelmingly in support from students, from some faculty, and especially the phone calls I am getting from constituents. I know that as a 61-year-old man who happens to be able to carry a gun, I cannot walk on that campus. I cannot go pick up my kids. Look at me. Do you think I am going to shoot somebody?

This is the right thing to do for our rights. This is where our Bill of Rights really comes in. I urge your support for this.

Roll call on Assembly Bill No. 487:

YEAS—26.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Munford, Neal, Spiegel, Sprinkle, Swank, Thompson—16.

Assembly Bill No. 487 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 221.

Bill read third time.

Remarks by Assemblyman Kirner.

ASSEMBLYMAN KIRNER:

Assembly Bill 221, as amended, revises provisions governing the collection, maintenance, use, and security of data collected concerning public school pupils. The bill requires the Department of Education to adopt any policies and procedures necessary to ensure the privacy of student data under state and federal law and to review these policies at least once each biennium and revise them as needed. The Department is further required to post on its website a list of all third-party service providers, organizations, and agencies that have access to data concerning individual pupils. For any contract that involves personally identifiable data about pupils, the Department, public school boards of trustees, and governing bodies are required to include contract provisions that meet certain privacy and security requirements, including prohibiting the sale of personally identifiable information and providing penalties for noncompliance.

This bill is one that we worked on during the interim. It has involved Clark County, Washoe County, and all the data people from those two organizations. It involved Infinite Campus. It involved a ton of lawyers as we worked on this thing. It involved outside organizations that have anything to do with schools. This is a composite of all that work. I think it is a very good bill, and I urge my colleagues to support it.

Roll call on Assembly Bill No. 221:

YEAS—42.

NAYS—None.

Assembly Bill No. 221 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 332.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 974.

AN ACT relating to public works; prohibiting a public body from entering into certain contracts for public works which allow for purchase by the public body of the construction materials or goods to be used in the public work; providing that the Attorney General shall enforce the prohibition against such a contract for a public work; directing the Department of Taxation to withhold certain money payable to a public body which violates such a prohibition in a contract for a public work; revising provisions relating to certain construction projects of the Nevada System of Higher Education; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, the sale of any tangible personal property to a governmental entity including the State, its unincorporated agencies and instrumentalities or a county, city, district or other political subdivision of this State, is exempted from the imposition of sales and use taxes. (NRS 372.325, 372.345) A contractor who buys tangible personal property or stores, uses or otherwise consumes tangible personal property for such a governmental entity must pay such taxes unless the contractor is a constituent part of that entity. (NRS 372.340) **Section 1** of this bill prohibits any public body including the State, its local governments, school districts, and any public agency thereof which sponsors or finances a public work from entering into an express or implied contract for a public work which provides that any construction materials or goods to be used on the public work be purchased or otherwise supplied by: (1) the public body; (2) a contractor who is a constituent part of the public body; or (3) a contractor who is not a constituent part of the public body acting on behalf of the public body. A public body may, however, enter into such a contract for a public work provided that the contract requires the payment of any state or local taxes that would otherwise have been due for the purchase and use of such construction materials or goods if they had been purchased and used by an entity not exempted from the payment of such taxes. **Section 1** also provides that: (1) an express or implied contract entered into in violation of this prohibition is void; (2) a person who enters into such a contract is guilty of a gross misdemeanor; and (3) the right to enforce the provisions of this prohibition vests exclusively in the Attorney General. **Section 1** further provides that, if a contract is entered into in violation of this prohibition, the Attorney General must forward to the Department of Taxation a list of the construction materials or goods purchased under the contract. The Department is then required to calculate the amount of applicable state and local taxes that should have been collected on the construction materials or goods, and deduct from the money otherwise payable from the proceeds of any tax distribution due to the public body either twice the amount of the applicable taxes or the sum of \$250,000, whichever is greater. In addition, **section 1** exempts from the new prohibition express or implied contracts for public works that use certain construction materials or goods that are: (1) purchased pursuant to governmental procurement rules, needed on a recurring basis and used to protect the health, safety or welfare of the public; or (2) specialized, project-specific components.

Under existing law, the laws of this State pertaining to public works apply to any project which is financed in whole or in part from public money for the new construction, repair or reconstruction of publicly owned works and properties, except that such laws only apply to a building for the Nevada System of Higher Education if 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money. (NRS 338.010) **Section 2** of this bill removes that exemption from the application of public works laws for ~~such a building for the System. However,~~

~~section 2.5 of this bill exempts~~ a building of the System if less than 25 percent of the costs of the building are paid from money appropriated by this State or federal money, **but section 2.5 of this bill exempts such a building** from certain provisions requiring that a public body use the services of the State Public Works Division of the Department of Administration for certain services relating to planning, maintenance and construction of state buildings. (NRS 341.141-341.148) **Section 2.5 also specifically requires the System to use the services of the Division as building official for the construction of any building for the System.** Section 4 of this bill repeals certain sections for conformity with the amendments made in section 2.

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

**Section 1.** Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in this section, a public body shall not enter into an express or implied contract for a public work which provides that any construction materials or goods to be used on the public work will be purchased or otherwise supplied by:*

*(a) The public body or a contractor who is a constituent part of the public body; or*

*(b) A contractor who is not a constituent part of the public body but is acting on behalf of the public body.*

*2. A public body may enter into an express or implied contract for a public work which provides that any construction materials or goods to be used in the public work will be purchased or supplied by the public body, a contractor who is a constituent part of the public body or a contractor who is not a constituent part of the public body but is acting on behalf of the public body if:*

*(a) The contract requires the payment of any state or local taxes that would otherwise have been due for the purchase and use of the construction materials or goods if the construction materials or goods had been purchased and used by a contractor who was not a constituent part of the public body and who was not otherwise exempt from the taxes pursuant to state or local law; and*

*(b) The public body sends an itemized list of the construction materials or goods to be purchased or otherwise provided by the public body or a contractor who is a constituent part of the public body, to the Department of Taxation. The itemized list must include the amount paid for each item.*

*3. An express or implied contract entered into in violation of subsection 1 is void.*

*4. A person who enters into an express or implied contract that violates the provisions of subsection 1 is guilty of a gross misdemeanor.*



5. *The right to enforce the provisions of this section vests exclusively in the Attorney General, who shall institute and prosecute the appropriate proceedings to enforce the provisions of this section.*

6. *If an express or implied contract for a public work is entered into in violation of subsection 1, the Attorney General shall forward to the Department of Taxation a list of construction materials or goods purchased in violation of this section by the public body or the contractor who is a constituent part of the public body. The Department shall calculate the applicable state and local taxes on the purchase and use of the construction materials or goods which would have been due but for the tax exemption of the public body or the contractor who is a constituent part of the public body, and shall deduct that amount from the money otherwise payable from the proceeds of any tax distribution to the public body:*

*(a) Twice the amount of the applicable taxes; or*

*(b) The sum of \$250,000,*

*↪ whichever is greater.*

7. *The provisions of this section do not apply to an express or implied contract for a public work for which the construction materials or goods purchased by the public body are:*

*(a) Devices, equipment or hardware purchased in compliance with chapter 332 or 333 of NRS which are needed on a recurring basis and used to protect the health, safety or welfare of the public, including, without limitation, official traffic control devices; or*

*(b) Specialized components purchased in compliance with chapter 332 or 333 of NRS which are specific to a particular project and are not commonly used in public works projects.*

*↪ If a public body enters into such a contract, the public body must provide annually to the Department of Taxation an itemized list of the construction materials or goods purchased pursuant to the contract and the amount paid for each item.*

8. *As used in this section, “construction materials or goods” means all materials, equipment or supplies which are intended to be used in a public work and includes, without limitation, the following, as well as related components or other materials intended for similar use:*

*(a) Structural or reinforcing steel.*

*(b) Aggregates, including, without limitation, base, barrow, concrete, asphalt, treated base, fill, topsoil and decorative aggregate.*

*(c) Interior finishing materials, including, without limitation, drywall, metal studs, acoustical ceiling material, paint, sealants, compounds and wall coverings.*

*(d) Flooring, including, without limitation, carpet, tile, wood, vinyl and laminates.*

*(e) Wood and wood products, including, without limitation, plywood, lumber, form systems, sheeting and decking.*

*(f) Utility materials, including, without limitation, piping, conduit, fiber optics, cables and cabling, power generators and pumps.*

*(g) Electrical materials, including, without limitation, conduit, wire, cables and cabling, electrical panels, lighting fixtures, outlets and switches.*

*(h) Plumbing materials, including, without limitation, pipes and piping, fixtures, drains, pumps, toilets, sinks, tubs and water heaters.*

*(i) Heating, ventilation and air conditioning materials, including, without limitation, ducts, vents, sheet metal, air conditioning units, furnaces and fans.*

*(j) Equipment and devices, whether purchased or rented, including, without limitation, heavy construction equipment, forklifts, scissor lifts, boom lifts, cranes and traffic control devices.*

*(k) Miscellaneous materials, including, without limitation, materials used for fencing, irrigation, masonry, cabinetry, doors, windows, traffic signals and signs, landscaping, roofing and elevators.*

**Sec. 2.** NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. “Authorized representative” means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. “Contract” means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. “Contractor” means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.

4. “Day labor” means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. “Design-build contract” means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. “Design-build team” means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. “Design professional” means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. “Division” means the State Public Works Division of the Department of Administration.

9. “Eligible bidder” means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

10. “General contractor” means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

11. “Governing body” means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

12. “Horizontal construction” means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.

13. “Local government” means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political

subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

14. "Offense" means failing to:

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or
- (d) Comply with subsection 5 or 6 of NRS 338.070.

15. "Prime contractor" means a contractor who:

- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his or her own workforce to perform all or a part of the public work; and
- (d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➡ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

16. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

17. "Public work" means any project for the new construction, repair or reconstruction of ~~[-~~

~~—(a) A] a~~ project financed in whole or in part from public money for:

- ~~[(1)]~~ (a) Public buildings;
- ~~[(2)]~~ (b) Jails and prisons;
- ~~[(3)]~~ (c) Public roads;
- ~~[(4)]~~ (d) Public highways;
- ~~[(5)]~~ (e) Public streets and alleys;
- ~~[(6)]~~ (f) Public utilities;
- ~~[(7)]~~ (g) Publicly owned water mains and sewers;
- ~~[(8)]~~ (h) Public parks and playgrounds;
- ~~[(9)]~~ (i) Public convention facilities which are financed at least in part with public money; and
- ~~[(10)]~~ (j) All other publicly owned works and property.

~~[(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.]~~

18. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

19. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➡ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

20. “Subcontract” means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➡ for the provision of labor, materials, equipment or supplies for a construction project.

21. “Subcontractor” means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

22. “Supplier” means a person who provides materials, equipment or supplies for a construction project.

23. “Vertical construction” means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.

24. “Wages” means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

25. “Worker” means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

**Sec. 2.5.** Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. The~~

1. Except as otherwise provided in subsection 2, the provisions of NRS 341.141 to 341.148, inclusive, apply to a contract for the construction of a building for the Nevada System of Higher Education only if 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

2. The provisions of subsection 2 of NRS 341.145 apply to the construction of any building for the Nevada System of Higher Education.

**Sec. 2.7.** NRS 341.141 is hereby amended to read as follows:

341.141 1. The Division shall furnish engineering and architectural services to the Nevada System of Higher Education and all other state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways;  
 (b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; ~~and~~

(c) ***Buildings of the Nevada System of Higher Education:***

***(1) That are exempted pursuant to subsection 1 of section 2.5 of this act; or***

***(2) To which subsection 1 of section 2.5 of this act applies if the Administrator has delegated his or her authority in accordance with NRS 341.119; and***

***(d) Buildings on property controlled by other state agencies if the Administrator has delegated his or her authority in accordance with NRS 341.119.***

↪ The Board of Regents of the University of Nevada and all other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;  
 (b) Designing;  
 (c) Estimating of costs; and  
 (d) Preparation of detailed plans and specifications.

**Sec. 3.** NRS 338.018 and 338.075 are hereby repealed.

**Sec. 4.** This act becomes effective on July 1, 2015.

#### **TEXT OF REPEALED SECTIONS**

**338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education.** The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

**338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education.** The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

This amendment to Assembly Bill 332 prohibits any public body—including the state, its local governments, school districts, and any public agency that sponsors or finances a public work—from entering into a contract, express or implied, for a public work that provides that any construction materials or goods to be used on the public work be purchased or otherwise supplied by the public body, a contractor who is a constituent part of the public body, or a contractor who is not a constituent part of the public body acting on behalf of the public body. A public body may, however, enter into such a contract for a public work provided that the contract requires the payment of any state or local taxes that would otherwise have been due for the purchase and use of such construction materials or goods if they had been purchased and used by an entity not exempted from the payment of such taxes.

The bill also exempts certain purchases related to emergencies, items needed on a reoccurring basis to protect health and safety, and specialized project-specific components. The bill exempts a building of the Nevada System of Higher Education from certain provisions requiring that a public body use the services of the State Public Works Division if less than 25 percent of the costs of the building are paid from money appropriated by this state or federal money.

The reason that I wanted to be sure to read the entire floor statement into the record is because in the past, there have been some things that were not so clear. This basically says that for all purposes, you are subject to the sales tax when you participate in a public works project for construction. I want to clarify that it is for construction. This goes a long way back in our state as a problem, and this helps to clarify it so we know where we are in the future.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 388.

Bill read third time.

Remarks by Assemblyman Paul Anderson.

ASSEMBLYMAN PAUL ANDERSON:

Assembly Bill 388 is a trailer bill from a bill that I passed last session in order to do some good, but it opened up a bit of a can of worms. I am putting those worms back in the can here. For the record, I will read the floor statement.

Assembly Bill 388, as amended, changes the period which a public officer or employee is eligible to take the specified number of days of leave of absence for military duties each year from a calendar year to a 12-month period selected by the officer's or employee's public employer and requires the Personnel Commission to prescribe this 12-month period by regulation for each state agency and for each political subdivision to prescribe this 12-month period for its agencies.

In addition, Assembly Bill 388 limits the compensation for a state officer or employee whose work schedule includes a Saturday or Sunday for those additional 24 working days of leave as follows, for each hour during any such period of leave: (1) If the officer's or employee's military pay exceeds his or her regular pay, the officer or employee receives only his or her military pay and not his or her regular compensation; or (2) If the officer's or employee's pay does not exceed his or her regular compensation, the officer or employee receives his or her military pay and his or her regular compensation is reduced by an amount equal to his or her military pay.

Finally, Assembly Bill 388 clarifies the term "work schedule" and "working day" and specifies other types of compensation and leave an officer or employee is not entitled to while on military leave. Assembly Bill 388, as amended, becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2015, for all other purposes.

Roll call on Assembly Bill No. 388:

YEAS—42.

NAYS—None.

Assembly Bill No. 388 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 60.

Bill read third time.

Remarks by Assemblyman Jones.

ASSEMBLYMAN JONES:

Senate Bill 60 transfers from the Secretary of State to the Attorney General the authority to issue fictitious addresses to certain persons and provides funding necessary for the Attorney General to carry out the program of issuing fictitious addresses. The bill also creates within the Office of the Attorney General the Office of Military Legal Assistance and extends the expiration date for the Substance Abuse Working Group from June 30, 2015, to June 30, 2019.

Roll call on Senate Bill No. 60:

YEAS—42.

NAYS—None.

Senate Bill No. 60 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 89.

Bill read third time.

Remarks by Assemblyman Edwards.

ASSEMBLYMAN EDWARDS:

Senate Bill 89 increases from \$250,000 per year to \$2 million per fiscal year the limitation on expenditures by the Division of Environmental Protection from the Fund for Cleaning Up Discharges of Petroleum. The bill also broadens the authority of the Division to use the Fund for the cleanup of discharges of petrochemicals. Testimony indicated that the discharges of petrochemicals that may be cleaned up using monies in the fund include certain chemicals that have dry cleaning applications.

Roll call on Senate Bill No. 89:

YEAS—42.

NAYS—None.

Senate Bill No. 89 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 195.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 951.

AN ACT relating to education; creating the Office of the Western Regional Higher Education Compact within the Office of the Governor; and providing other matters properly relating thereto.



**Legislative Counsel's Digest:**

~~[Existing law authorizes the Governor to employ certain persons to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Economic Development, the Office of Science, Innovation and Technology and the Governor's mansion. (NRS 223.085) Section 4 of this bill additionally authorizes the Governor to employ certain persons to provide an appropriate staff for the Office of the Western Regional Higher Education Compact.]~~

Existing law directs the Governor to execute a compact with certain other states for the purpose of forming a Western Interstate Commission for Higher Education. (NRS 397.010) The compact requires the Western Interstate Commission for Higher Education to enter into certain contractual agreements with certain institutions offering graduate or professional education in other member states in order to increase the opportunities for residents of member states to obtain graduate or professional degrees. (NRS 397.020) **Sections 3 and 5** of this bill create the Office of the Western Regional Higher Education Compact within the Office of the Governor. **Section 5 requires the Governor to propose a budget for the Office and to appoint a Director of the Office, who is in the unclassified service of the State. Section 5 authorizes the Director to employ any necessary personnel, who are in the classified service of the State.**

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** NRS 397.030 is hereby amended to read as follows:

397.030 1. In furtherance of the provisions contained in the Compact, there must be three Commissioners from the State of Nevada, appointed by the Governor ~~[ ]~~ ***to serve in the Office of the Western Regional Higher Education Compact created by section 5 of this act.***

2. The qualifications and terms of the three Nevada State Commissioners must be in accordance with Article 4 of the Compact. A Nevada State Commissioner shall hold office until his or her successor is appointed and qualified, but the successor's term expires 4 years after the legal date of expiration of the term of his or her predecessor.

3. Any Nevada State Commissioner may be removed from office by the Governor upon charges and after a hearing.

4. The term of any Nevada State Commissioner who ceases to hold the required qualifications terminates when a successor is appointed.

**Sec. 4.** NRS 223.085 is hereby amended to read as follows:

223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Economic Development, the Office of Science, Innovation and Technology

, *the Office of the Western Regional Higher Education Compact* and the Governor's mansion. ~~[Any]~~ Except as otherwise provided by specific statute, such employees are not in the classified or unclassified service of the State and, except as otherwise provided in NRS 231.043 and 231.047, ~~and section 5 of this act,~~ serve at the pleasure of the Governor.

2. ~~[The]~~ Except as otherwise provided by specific statute, the Governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

3. The Governor may:

(a) Appoint a Chief Information Officer of the State; or

(b) Designate the Administrator as the Chief Information Officer of the State.

➡ If the Administrator is so appointed, the Administrator shall serve as the Chief Information Officer of the State without additional compensation.

4. As used in this section, "Administrator" means the Administrator of the Division of Enterprise Information Technology Services of the Department of Administration.

**Sec. 5.** Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *There is hereby created within the Office of the Governor the Office of the Western Regional Higher Education Compact.***

**2. *The Governor shall propose a budget for the Office of the Western Regional Higher Education Compact.***

**3. ~~[Employees]~~ The Governor shall appoint a Director of the Office of the Western Regional Higher Education Compact. ~~[are not]~~ The Director is in the ~~[classified or]~~ unclassified service of the State and ~~[serve]~~ serves at the pleasure of the Governor.**

**4. The Director may, within the limits of available money, employ such additional personnel as may be required to carry out the duties of the Office of the Western Regional Higher Education Compact, who must be in the classified service of the State.**

**Sec. 6.** This act becomes effective on July 1, 2015.

Assemblyman Paul Anderson moved the adoption of the amendment.

Remarks by Assemblyman Paul Anderson

ASSEMBLYMAN PAUL ANDERSON:

Section 5 requires the Governor to propose a budget for the Office of the Western Regional Higher Education Compact and to appoint a Director of the Office who is in the unclassified service of the state. Section 5 authorizes the Director to employ any necessary personnel who are in classified service of the state.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 276.

Bill read third time.

Remarks by Assemblymen Dickman, Jones, and Ohrenschall.

Potential conflict of interest declared by Assemblyman Ohrenschall.

ASSEMBLYWOMAN DICKMAN:

Senate Bill 276, as amended, requires the Division of Public and Behavioral Health [DPBH] to reallocate medical marijuana establishment certificates between counties under certain circumstances. Senate Bill 276 also allows for the DPBH to relocate medical marijuana establishment certificates from one location to another under the same local government under certain circumstances.

Additionally, S.B. 276 authorizes the transfer of ownership of a medical marijuana establishment to another party after complying with certain requirements of the DPBH. Finally, S.B. 276 requires DPBH to ensure its regulations do not conflict with the location, land use, appearance, or signage of a medical marijuana establishment.

ASSEMBLYMAN JONES:

I rise in support of Senate Bill 276. This bill will solve many of the issues between the state and counties regarding the licensing of these new businesses. The bill will also allow business owners the flexibility to transfer their ownership interests to other qualified persons that have been approved by the state.

As one who always encourages efficient markets, I urge your support for this bill.

ASSEMBLYMAN OHRENSCHALL:

Because we are considering Senate Bill 276, which makes changes relating to marijuana and marijuana establishments, I would like to advise this body that my wife lobbies on behalf of marijuana dispensary owners and associations of those. Although Senate Bill 276 does not affect her clients any differently than any other dispensary owners, I am making this disclosure pursuant to Assembly Standing Rule No. 23 and am abstaining from voting on Senate Bill 276 out of an abundance of caution.

Roll call on Senate Bill No. 276:

YEAS—34.

NAYS—Benitez-Thompson, Dooling, Ellison, Hansen, Moore, O'Neill, Titus—7.

NOT VOTING—Ohrenschall.

Senate Bill No. 276 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 302.

Bill read third time.

Remarks by Assemblymen Edwards, Elliot Anderson, Joiner, Swank, Hickey, Jones, Nelson, Oscarson, Gardner, Dickman, Carlton, Hansen, Thompson, Wheeler, and Spiegel.

ASSEMBLYMAN EDWARDS:

Senate Bill 302 authorizes the parent of a student to enter into an agreement with the State Treasurer under which the student will receive a grant equal to 90 percent of the statewide average basic support per pupil—or 100 percent for students with disabilities or those whose family income is less than 185 percent of the federal poverty level—to be used to pay the cost of enrollment in a private school or to contract for private educational services. Only students who attended a public school, including a charter school, for at least 100 school days are eligible, and

a proportionally smaller grant may be provided for part-time private education enrollment. Each grant agreement is valid for one school year and may be renewed or reinstated in a future year at the option of the parent.

Grant funds for each student must be deposited into an education savings account opened by a parent, and the funds must only be used for specific education expenses. The Treasurer may deduct up to 3 percent from the grant to cover administrative costs, which include annual audits of random education savings accounts. The Treasurer must establish reasonable fees for the education savings accounts and may qualify one or more private financial firms to manage those accounts.

Participating entities eligible to receive funding from the education savings account must meet certain requirements and maintain ongoing compliance. The Treasurer will publish a list of such entities, other than any participating parents. Participating students must complete standardized tests in math and English. Their results will be shared with the Department of Education, which will aggregate the results and report on the general progress of grant recipients. Students choosing to return to public school must do so at the end of a school funding period. Funds in an education savings account roll over from year to year and must revert to the State General Fund once the student graduates from high school.

I urge your support on this very important bill.

ASSEMBLYMAN ELLIOT ANDERSON:

I rise in opposition to Senate Bill 302. I think the world of the bill's sponsor, but I do not think the world of this bill. There are a number of really big problems with this.

Number one: It is blatantly unconstitutional. The schools that can be given these funds include religious schools. Under NRS [*Nevada Revised Statutes*] 394.211, that is a blatant violation of Article 11, Section 10 of the *Nevada Constitution*, which prohibits any money going for sectarian purposes. It is going to be ruled unconstitutional.

Number two: It is also a bit reckless in the way it allows money to be disbursed. Part of a participating entity can include a parent. Although the bill says a child cannot be wholly homeschooled, it does say that if they are at least partially involved in some sort of public school, which could be a distance education course, and they are partially homeschooled, then they could receive money. A parent is included in the definition of a participating entity in section 11 of the bill. That is a problem because what expertise does a parent have in spending the DSA [Distributive School Account] dollars on curriculum? Are parents trained in ordering curriculum? Do they know whether curriculum is research-based or not? That is a problem. Someone could say, Here is my curriculum. Here are my textbooks. Buy it. We are opening the door for games with our taxpayer dollars, and we are depriving public education of much-needed revenue.

I strongly urge this body to consider defeating this measure because when it comes down to it, the Treasurer is the one managing this. They are the ones ensuring that the funds are being spent correctly on the correct education materials. Does anyone know what the Treasurer knows about education? I sure have not figured that out. This is a big, big problem. If you believe in accountability for taxpayer dollars, you cannot vote for this bill.

ASSEMBLYWOMAN JOINER:

I also rise in opposition to Senate Bill 302. Unfortunately, I rise in opposition to this measure because I think it flies in the face of everything that many of us have been fighting for this whole session, which is to adequately fund and support our public school system. This bill actually syphons money away from our public school system and gives it to private schools at a time when our schools can least afford it. What we are trying to do is support them more than we have before. The way that this bill is funded, it takes 90 percent—or 100 percent in certain students' cases—of the funding that goes to the public schools and gives it to the private schools. We asked in the hearing yesterday how that was arrived at, and really what it ends up doing is taking far more money away from the public schools than that student is actually costing. A true calculation should look at the margin of that student, not the total amount.

More importantly, I understand that parents think choice is important. I am a parent, and I think that choice sounds like a good idea, but it is an illusion under this bill. This bill allows the funds to go to private schools that will continue to choose their students. They will continue to interview students; your student will still have to pass the interview process. They can still discriminate

against your student for any reason, and they do not have to give a reason. It could be for ability, it could be for appearance, or it could be for a lack of fit with their particular school. That is not the type of school that we want to be spending our public funds on.

Again, it cuts a check to the families that can already afford private school. The students and their families who are currently in the private schools are wealthy and can afford it, and this will be giving them additional funds. They do not need that money; our public schools do. More importantly, for those people who think that this will give funds to poor families or working-class families to get their kids into a private school, even if they can get through the interview process and get into that school, this will not fund the full amount of the tuition. Please do not be deluded into thinking that this will make up the entire difference of the tuition. Our poor families still will not be able to send their kids there.

Finally, the vast majority of our students go to public schools. So when I vote against S.B. 302 today, my vote will be in favor of our public school students, teachers, and administration. I believe that we should be supporting them, not diverting our money to private schools.

ASSEMBLYWOMAN SWANK:

I rise in opposition to Senate Bill 302. We have been talking a lot this session about school choice. We have been talking about how this is good for our students. The one thing we really have not considered is how difficult it is for parents to choose a school. We know that when you look at schools—I hear a lot of my friends who are in the process of finding that right kindergarten, finding that right first grade for their child—there is a lot to consider. You have to consider your child's needs. You have to look at all the different curricula that exist across different schools.

My big concern with this bill is that if we are going to be expanding school choice, we need to provide support for these parents in making those choices. This bill does not create a position that would provide assistance and support to the parents in making these decisions. I think we are overburdening our already busy parents, and it really demonstrates how this kind of voucher scheme is not fully worked out to show how it would actually function. We need to be sure that we are providing the support that our parents need if we are going to expand choice in our state. I feel at this point, this bill is not ready to go forward on those grounds. I urge that you vote against it.

ASSEMBLYMAN HICKEY:

I rise in support of Senate Bill 302. I am sympathetic to the arguments from a couple of our colleagues about this body's and this state's commitment to, and investment in, our public school system. I think this session will be historic in the degree of investment and commitment that we make to the public school system. I think there are many instances in the larger school districts, especially in Clark and Washoe, where school choice is something that is already being incorporated into their plans. Whether it be magnet schools or choice within districts, I think choice has been good.

To the point of my colleague from southern Nevada that parents may need more help in making wise decisions, I think parents are very capable of making decisions for their children.

To the point that was made that minority students might be unfairly affected by this, this particular piece of legislation is based on choice programs in Florida where over two-thirds of their students who have taken advantage of choice are, in fact, minority students. Their assigned public schools tend to be among the lowest-performing public schools there. That program, in a state where it has been going on longer, now has 70,000 students, and the diversity of the private schools has expanded and had no impact on the racial makeup of public schools.

For that and any number of reasons, I think this is a sensible movement within education that I think will make all of our schools better and our education system better as a result. I urge your support.

ASSEMBLYMAN JONES:

I rise in strong support of Senate Bill 302. First, I would like to say to my colleague from the north that this session is not just about bettering public education. It is about improving education for all students. That includes students who go to charter and private schools.

What I would like to point out is, what is great about this country of ours, the greatest country that has ever existed on the face of the planet, is that we are 50 incubators of states where people can try new things. By and large, when school choice has been enacted, the overall performance

in both public and private schools has gone up. It is a good thing for both the public and the private schools. In New Orleans when it was taken out by Katrina, it was required that they go to charter schools. The disadvantaged, the impoverished, the poor, the minority students—all of them improved dramatically in their education. So school choice has been proven over and over and over in the different states to be successful. It is very good, and it will definitely help improve our children's education.

ASSEMBLYMAN NELSON:

I rise in support of Senate Bill 302. In response to my colleague from the south regarding the constitutionality of this bill, as he said, the *Nevada Constitution*, Article 11, Section 10 states, “No public funds of any kind or character whatever, State, County or Municipal, shall be used for sectarian purpose.” It does not say anything about education. If this law is unconstitutional because some of the money ends up in private schools that may have a religious orientation, then all of the Medicaid and Medicare funds are also unconstitutional because some of those funds end up in religious hospitals. The money is not going for a “sectarian purpose.” It is going to purchase something and what it is going to purchase is an education. It is just like Medicaid funds. If they go into Rose de Lima Hospital in Clark County, that does not mean they are going for a religious purpose. They are going to a hospital which is chartered by a religious organization to purchase medical attention and medical services. I think that the argument that this is unconstitutional is misguided.

I would like to commend our colleague from the Senate who proposed this bill. I think this is probably one of the most significant bills we will pass this session in improving education in our state, and I urge my colleagues to vote for it.

ASSEMBLYMAN OSCARSON:

I believe Senate Bill 302 sets a new top standard for school choice in our country. Empowering parents to choose the best education for their children is the best thing we can do for our students. I urge my colleagues' support.

ASSEMBLYMAN GARDNER:

I rise in support of Senate Bill 302. It is constitutional. The U.S. Supreme Court has already upheld programs just like this as constitutional. My colleague from the south notes the Blaine Amendment, which was put into our *Nevada Constitution* in 1880. It was an anti-Catholic amendment, done with hatred toward the Catholics. It is still in our *Nevada Constitution*, which I believe is probably unconstitutional under the *U.S. Constitution*. I do not think that is a good reason to try and deny this. States that have Blaine Amendments like ours—in Arizona, for example, their Supreme Court upheld this. So I think legally it is on a very solid foundation. The courts that have looked at this have upheld it as constitutional.

I somewhat disagree with some of my colleagues who say that parents are not smart enough to help their kids with education. That is what we do. I have four kids. I can tell you that when I look at their schools, I look at a lot. I do a lot of research, and I think most parents do. It is a very important thing. We all know that education is the great equalizer.

This funding is only a portion of the amount that we spend on our students. The DSA is what we are giving to them. That does not include all the local funds; that does not include all the federal funds. Those are still remaining in the schools. So the schools are actually getting fewer students for more money. They actually get more money on a per-pupil basis.

Some people were talking about how you cannot get into these private schools. I have talked to these private schools. These private schools are saying that in a lot of those cases where they cannot make up the entire cost, we give scholarships for that. Saying that just because you do not have all the money does not mean they will not be able to get into those schools. I have talked to those people.

The whole point about this idea is that we are giving parents the right. We are not forcing them to go to these other schools. If our public schools were not so terrible, guess what? No one would choose this option. Right now, we are condemning parents to be in terrible schools that have not gotten better in over 40 years; they have actually gotten worse. This gives them the option. This is one of the best bills in the country for school choice. I wholeheartedly support it, and I ask that you support it, too.

ASSEMBLYWOMAN DICKMAN:

I, too, rise in strong support of Senate Bill 302. For me, this is probably the most important reform that we will implement in this session to improve our schools. First, it is going to give our less fortunate students an opportunity to attend better schools and, secondly, I think the competition is what is really going to change our public schools. It is the only thing that is going to force them to become better schools because they are going to be losing students if they do not. I would appreciate it if everyone here would fully support this bill.

ASSEMBLYWOMAN CARLTON:

I rise in opposition to Senate Bill 302. I am sorry, I call them like I see them. This is a voucher, and I am opposed to vouchers. I do not think that is a surprise to anyone. But the thing that keeps going through my mind is, we spent hours this morning in Ways and Means going over the New Nevada Plan, how we were going to address each child's needs in the future, and how it was going to take us a good ten years to get where we are going. There is the ELL [English language learners] component, there are social issues, there is poverty—there are all types of things. Ultimately, when we come back to the accountability of this and the schools want the money to put into these savings accounts, how are we going to figure out what amount we are supposed to give the kids? How are we going to hold the schools truly accountable and figure out what matrix we need? We are talking about different portions of weighted averages for all different types of students. No kid is like any other kid—to try to come up with a blanket way of figuring out how much each child's education is going to be worth. Then they are going to come back and say, Well, these children need this. I cannot see any way that we are going to be able to legitimately take the number and really figure out what it is going to do.

I have concerns about where this is located and the accountability within the Treasurer's section. The testing is on an aggregated basis. As far as homeschooling goes, they do not have the same requirements in testing that other children do. I have some real issues, and I think there are some real holes in this. I understand people want to send their kids to parochial school. I went to parochial school. My parents paid for it every Sunday in the envelope they put in the basket. I wore the uniform, and I went to school. That is the way you pay for parochial school.

ASSEMBLYMAN HANSEN:

I rise in support of Senate Bill 302. I have been doing a lot of research on education spending in Nevada. We are currently spending \$4.2 billion a year. That is \$8.4 billion in the biennium. Our entire General Fund for the state is \$6.5 billion. So the idea that we are underfunding education—in fact, in the last 30 years we have doubled per-pupil spending in this state. Doubled it. And the result is that we are still fiftieth.

The idea that taxpayers are being gypped somehow in this—last time I checked, parents are, in fact, taxpayers. So the idea that a parent who wants to make a choice like that is somehow cheating the tax system makes absolutely no sense whatsoever.

The reality is, we are fiftieth in the nation. This is my third session, and every single session we have talked about money, money, money as the answer to educational woes. We have dramatically expanded the amount of spending on public education, and the results have been minimal. All the people I talk to desperately want some accountability for the money we have already invested. We keep pouring more and more money into the public schools, yet show me the evaluations of these programs and where we have actually blocked some programs, because after years and years of funding them, they have been shown to do nothing of value.

I would strongly urge my colleagues to support this, because if we have learned anything it is that competition is good and healthy and to allow these parents to have different options for their children will improve public education. Most importantly, it will allow the students themselves to have dramatically improved academic performances. Homeschoolers, for example, have been shown to do substantially better on academic tests than the public school kids. I think we need to have more confidence in our parents and give them those kinds of options to do that. This is a great bill. This is a great day for Nevada, and I would strongly urge my colleagues to support Senate Bill 302.

ASSEMBLYMAN THOMPSON:

I rise in strong opposition to Senate Bill 302. First of all, I want to say that I have the utmost respect for the bill's sponsor. However, I am a native Nevadan. I am a product of the Clark County School District. I must say that my biggest concern if we pass this is the trending that is going to occur. We are going to continue to create the haves and the have-nots.

Since I went to school, there are so many specialized schools in the public school system. There are many magnet schools in the public education system. We have quality programs in our schools. I feel like we are going in the wrong direction if we pass this. I urge our body to oppose Senate Bill 302.

ASSEMBLYMAN WHEELER:

My colleague from District 14 said something that I think was absolutely right on: Every child is different. I believe that as well. But because every child is different, I believe they learn at different levels, they take different amounts of education, and they take different amounts of teaching. I believe this bill not only gives us that option, but I also believe this bill actually helps with parental involvement, something that we cannot legislate in this room. No legislature can put parental involvement out there. But when you add something like this and you give parents a choice, you do help with parental involvement. Therefore, I am strongly in agreement with this bill, and I urge my colleagues to vote for this bill.

ASSEMBLYWOMAN SPIEGEL:

I, too, rise in opposition to Senate Bill 302. When my colleague from Assembly District 32 was speaking before, he was talking about the level of spending on education. I think most of you know that I am not a native Nevadan. I grew up in New York in a fairly small town that is known year after year for having one of the top 100 school districts in the country. I was fortunate. I was fortunate to go to a school that was properly funded, that had small class sizes, that had parents who were involved. We had a world of opportunity opened to us because we had schools that were appropriately funded. Some of you may know this, some of you may not. I had one classmate who dropped out of high school. One. Evan dropped out after tenth grade to go to MIT [Massachusetts Institute of Technology] because the school could not provide sufficient resources for him. Our high school dropout has a PhD [doctor of philosophy] and has done very well for himself.

I know what it is like to go to a school that is properly funded. When I go visit schools in my district and I see that the schools do not have enough resources, when I see there are not books or desks for all the kids, when I see an elementary school in my district with more students in portables than I had in my entire high school class, my heart breaks. This bill pulls money out of the public school system and gives it elsewhere. I am not denying the need for quality education for students who go to private schools or who are homeschooled. I think that our first obligation is to the public and to the public schools. Pulling money out of our schools that are so desperate for appropriate funding is something I feel is wrong, and I urge you all to please oppose this bill.

Assemblymen Moore, Ellison, and Kirner moved the previous question.

The question being the passage of Senate Bill No. 302.

Roll call on Senate Bill No. 302:

YEAS—25.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Munford, Neal, Ohrenschall, Spiegel, Sprinkle, Swank, Thompson—17.

Senate Bill No. 302 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 374.

Bill read third time.

Remarks by Assemblymen Nelson and Kirkpatrick.



ASSEMBLYMAN NELSON:

Senate Bill 374 prohibits the Director of the Office of Energy and a governing body of a local government from adopting a standard mandating requirement for air changes per hour that is outside certain ranges. The adoption of certain energy conservation standards by the Office of Energy and a governing body is not deemed to prohibit the Director or governing body from approving and implementing certain energy efficiency programs related to new residential construction.

Additionally, S.B. 374 requires a utility to offer net metering to customers until the cumulative capacity of all net metering systems for which all utilities in this state have accepted or approved completed applications for net metering is equal to 235 megawatts. After the requirement is met, the utility is required to offer net metering in accordance with a tariff filed by the utility and approved by the Public Utilities Commission of Nevada. A utility must submit the proposed tariff to the Commission not later than July 31, 2015, and the Commission must review and either approve or disapprove each proposed tariff not later than December 31, 2015. An approved tariff cannot take effect until after the date on which the cumulative capacity requirement is met. If the Commission does not approve the required net metering tariff by December 31, 2015, beginning on January 1, 2016, the utility is required to offer net metering to customers in the manner consistent with current law.

Furthermore, the measure allows the Commission to determine if the tariff approved under this bill should apply to customer-generators who have accepted an offer of net metering before the cumulative capacity is met. The bill also allows the Commission to charge net metering customers time-of-use rates. Finally, it requires a utility to include in an integrated resource plan an analysis of the effects of net metering on the reliability of the distribution system and the costs to the utility to provide electric service to all customers.

This bill has been highly negotiated. I would like to commend the Chair of Commerce and Labor for getting all the stakeholders in his office on numerous occasions and working out something that none of them really love but they can all live with.

ASSEMBLYWOMAN KIRKPATRICK:

I rise in support of Senate Bill 374. In all of the legislative sessions that I have been here for, I have worked to help promote this industry to ensure that we had opportunities and we could try new things within our state. Many folks before me did that as well.

I brought a consumer protection bill because we are letting an industry grow that we do not know for the long term. I have been accused of everything under the sun, as late as today, and really it is about the consumer. When we are creating a new industry and it is growing by leaps and bounds, I would hope that in the future this body would bring back some type of consumer protection to make sure that your residents and your consumers that participate in this new fast-growing industry have all the protections they are paying for and that we as legislators are expected to ensure they have. I urge your support on this piece of the puzzle, and I hope someone will finish my puzzle next session.

Roll call on Senate Bill No. 374:

YEAS—41.

NAYS—Carlton.

Senate Bill No. 374 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 414.

Bill read third time.

Remarks by Assemblywoman Dooling.

ASSEMBLYWOMAN DOOLING:

Senate Bill 414 encourages the Board of Regents to enter into a reciprocal agreement with the State of California to authorize waivers of nonresident tuition to residents of California in the Lake Tahoe Basin to attend Western Nevada College.

Roll call on Senate Bill No. 414:

YEAS—42.

NAYS—None.

Senate Bill No. 414 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

#### REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 77, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 480, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAUL ANDERSON, *Chair*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bills Nos. 77 and 480, just reported out of committee, be placed on the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 77.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1000.

AN ACT relating to state governmental administration; revising certain provisions governing district boards of agriculture, agricultural associations and the operation of a state fair or regional fair in this State; making various changes to provisions governing noxious weeds; ~~increasing the maximum rate of certain taxes on sheep;~~ revising certain provisions governing public sales of livestock and licenses for the operation of public livestock auctions; authorizing the issuance of a free-sale certificate for an agricultural product under certain circumstances; requiring a person to register as a produce vendor under certain circumstances; requiring the State Sealer of Consumer Equitability to take certain actions concerning cash registers and to establish civil penalties for certain tests of nonconforming point-of-sale systems and cash registers; revising certain provisions governing the inspection of meat and poultry, pesticides and the sale of antifreeze; repealing and reenacting, without substantive change, provisions relating to the cleanup of discharged petroleum; repealing provisions relating to dangerous caustic or corrosive acids, alkalis

and other substances; authorizing the imposition of a civil penalty for certain violations relating to apiaries, quarantines, noxious weeds and meat, fish, produce, poultry and eggs; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law regulates the formation and powers of district boards of agriculture. (Chapter 547 of NRS) Existing law provides that the eight members of the district boards must be divided into different classes to provide for staggered terms. (NRS 547.040) **Sections 1 and 3** of this bill delete those provisions. Existing law requires the district boards of agriculture to organize annual fairs or exhibitions of the industries in their districts, and that counties may appropriate not more than \$1,500 from their general funds to aid in this effort. (NRS 547.110, 547.120, 547.140) **Sections 4-6** of this bill make these fairs optional and increase the allowable county appropriation to not more than \$150,000 in any 1 year. Existing law requires that an annual mineral industries exhibition be held in Ely, Nevada. (NRS 551.010) **Section 9** of this bill renames this exhibition, makes it optional and removes the requirement that it be held in Ely. **Section 8** of this bill authorizes the State Department of Agriculture to hold a state fair once a year. **Sections 10-12** of this bill place the control of the apiary industry under the Director of the Department. **Sections 13-21** of this bill revise punitive provisions relating to quarantines of agricultural products, increasing penalties and providing for civil penalties. **Sections 22 and 40** of this bill revise the definitions of "pest" and "pesticide" as those definitions relate to the control of pests and weeds. **Section 23** of this bill authorizes the Director to adopt a program certifying certain agricultural products as being free of noxious weeds. **Sections 30-35** of this bill replace references to the eradication, removal or destruction of weeds with the term "control." **Sections 36, 39 and 43** of this bill replace criminal penalties relating to the control of weeds with civil penalties. ~~Section 102 of this bill increases the maximum amount of the tax on sheep from 18 cents per head to \$1.50 per head.~~ **Sections 103-105** of this bill place the proceeds of those taxes solely under the control of the State Controller and adjust the amount of the proceeds that may be spent on advancing the interests of the sheep industry. **Sections 108-113** of this bill revise provisions for the licensing of persons operating public livestock auctions to increase the amounts of surety bonds and available credit, provide for financial audits and increase fines for violations. **Section 125** of this bill requires sellers of certain farm products to register as produce vendors. **Sections 127 and 128** of this bill remove requirements for agricultural brokers, dealers, commission merchants and agents to disclose arrests and civil suits during the application process and to show good character. **Section 136** of this bill requires the State Sealer of Consumer Equitability to conduct random inspections of point-of-sale systems and cash registers and to adopt regulations establishing a schedule of civil penalties concerning point-of-sale systems and cash registers that are not in compliance with certain requirements. Existing law prohibits the sale of spoiled or diseased

meat, fish, produce and poultry in any city or town. (NRS 583.010, 583.060, 583.070) **Sections 142, 149 and 150** of this bill expand this prohibition to include any location in the State. **Sections 145, 151, 157, 159, 165 and 166** of this bill replace references to the Department of Health and Human Services with the State Department of Agriculture. **Sections 144, 147, 151, 152, 161, 163 and 164** of this bill revise the punitive provisions governing the regulation of meat, fish, produce, poultry and eggs. **Sections 191 and 193** of this bill replace the criminal provisions governing pesticides with civil penalties. **Sections 68-94** of this bill reenact in chapter 445C of NRS, without substantive change, provisions currently in chapter 590 of NRS which relate to the cleanup of discharged petroleum and which are repealed by **section 210** of this bill. **Section 96.5** of this bill reenacts in chapter 446 of NRS, without substantive change, a provision currently in chapter 583 of NRS which relates to the sale of diseased animal flesh or a container containing shellfish which has not been stamped as approved and which is repealed by **section 210** of this bill. The purpose of repealing and reenacting these provisions is to move the provisions, without substantive change, from one chapter in NRS to another chapter in NRS. **Section 210** of this bill also repeals provisions dealing with mineral content in fertilizer. **Section 194** of this bill authorizes the Director to adopt certain national standards concerning fertilizer. **Section 198** of this bill revises punitive provisions governing fertilizer. Existing law requires used and recycled oil to be clearly labelled on the package. (NRS 590.060) **Section 201** of this bill requires bulk deliveries of used or recycled oil to be clearly identified on the receipt. **Section 202** of this bill revises the testing procedures for motor oil viscosity. **Section 204** of this bill removes the requirement for the State Sealer of Consumer Equitability to inspect antifreeze before the antifreeze is sold, but requires the State Sealer of Consumer Equitability to issue a license authorizing its sale if it is in compliance with certain standards.

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

**Section 1.** NRS 547.040 is hereby amended to read as follows:

547.040 1. Not later than 10 days after an agricultural association is formed within an agricultural district listed in NRS 547.010 pursuant to the provisions of this chapter:

(a) The Governor, if the agricultural district is composed of more than one county, shall appoint eight persons who are residents of the agricultural district and who are members of the agricultural association to be members of the district board of agriculture for the agricultural district; or

(b) The board of county commissioners, if the agricultural district constitutes a single-county agricultural district, shall appoint eight persons who are residents of the agricultural district to be members of the district board of agriculture for the agricultural district.

2. Within 10 days after their appointment, the persons so appointed shall meet at a place within the agricultural district and organize by the election of:

(a) One of their number as president of the district board of agriculture and the agricultural association, who shall hold the office of president for 1 year and until his or her successor is elected.

(b) A secretary and a treasurer.

~~[3.— At the same meeting the members of the district board of agriculture shall, by lot or otherwise, classify themselves into four classes of two members each. The terms of office of:~~

~~—(a) The first class expire:~~

~~——(1) At the end of the first fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~——(2) On December 31 of the first fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.~~

~~—(b) The second class expire:~~

~~——(1) At the end of the second fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~——(2) On December 31 of the second fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.~~

~~—(c) The third class expire:~~

~~——(1) At the end of the third fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~——(2) On December 31 of the third fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.~~

~~—(d) The fourth class expire:~~

~~——(1) At the end of the fourth fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~

~~——(2) On December 31 of the fourth fiscal year if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.]~~

Sec. 2. NRS 547.050 is hereby amended to read as follows:

547.050 When any district board of agriculture is ~~{classified and}~~ organized as provided in NRS 547.040, the secretary of the board shall report such ~~{classification and}~~ organization to:

1. The State Department of Agriculture; and
2. Its appointing authority.

**Sec. 3.** NRS 547.060 is hereby amended to read as follows:

547.060 1. ~~{Except as otherwise provided in subsection 3 of NRS 547.040, each}~~ **Each** member of a district board of agriculture must be appointed for a term of 4 years. ~~{The term begins on:~~

~~—(a) July 1, if the member was appointed to a district board of agriculture for an agricultural district whose population is 100,000 or more as determined by the population of the county or counties that compose the district; or~~  
~~—(b) January 1, if the member was appointed to a district board of agriculture for an agricultural district whose population is less than 100,000 as determined by the population of the county or counties that compose the district.}~~

2. The secretary shall report any vacancy which may occur in the district board of agriculture to its appointing authority as specified in NRS 547.040, and the vacancy must be filled by appointment for the unexpired term.

3. The incumbent members of the district board of agriculture may submit to the appointing authority for consideration a list of nominees for appointment to fill any vacancy on the board.

**Sec. 4.** NRS 547.110 is hereby amended to read as follows:

547.110 The district board of agriculture ~~{shall}~~ **may** provide for ~~{an annual}~~ **a** fair or exhibition by the agricultural association of ~~{all}~~ the industries and industrial products in the agricultural district, at such time and place as the board may deem advisable, but:

1. No district fair shall be held in any of the districts at the same time as the state fair; and
2. The State shall in no event be liable for any premium offered, or award, or for any debt contracted by any district board of agriculture or agricultural association.

**Sec. 5.** NRS 547.120 is hereby amended to read as follows:

547.120 For the purpose of aiding each and any agricultural association formed under the provisions of this chapter within any county or counties in successfully carrying out the purposes for which it has been organized, which association ~~{shall annually}~~ **may** hold, within any county or counties comprising the agricultural district, a fair or exhibition, the boards of county commissioners of the several counties are authorized to appropriate any money or moneys out of the general fund of their respective counties to aid any such agricultural association composing any agricultural district of which the county or counties may be a part.

**Sec. 6.** NRS 547.140 is hereby amended to read as follows:

547.140 1. Except as otherwise provided in subsection 2, if two or more counties are included in and comprise an agricultural district, the boards of county commissioners of such counties are authorized to appropriate, out of

the general fund of such counties, such money for the encouragement of such agricultural associations as the boards may, in their judgment, deem just and proper.

2. In no case may an appropriation described in subsection 1 exceed the sum of ~~[\$1,500]~~ **\$150,000** in any 1 year, unless the money so appropriated was obtained from the proceeds of a tax imposed pursuant to chapter 377A of NRS.

**Sec. 7.** NRS 547.160 is hereby amended to read as follows:

547.160 1. When the boards of county commissioners of the counties constituting and comprising the agricultural district shall determine and allow the amount to be appropriated ~~annually~~ for the purposes mentioned in NRS 547.130, the same shall be paid as other bills against the county are paid.

2. All warrants drawn pursuant to the provisions of this section shall be made payable to the order of the president of the district board of agriculture of such agricultural association, or in the case of the president's absence or inability to serve, such warrants shall be made payable to the order of a member of the district board of agriculture as such board shall, by a majority vote thereof, determine and direct.

**Sec. 8.** Chapter 551 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. Except as otherwise provided in NRS 547.110, the State Department of Agriculture may operate or authorize the operation of any state fair or regional fair in this State.**

**2. The Director of the Department must determine the venue and frequency of any state fair or regional fair, except that a state fair or regional fair may not be held more frequently than once each calendar year.**

~~**3. The Department may charge and collect fees for vendor spaces and accept any contributions and sponsorships to offset any expenses associated with operating a state fair or regional fair.**~~

**Sec. 9.** NRS 551.010 is hereby amended to read as follows:

551.010 1. A statewide mining, petroleum and industrial exhibition, to be known as the Nevada ~~[Fair of]~~ Mineral ~~[Industries, shall be held at Ely, Nevada, annually.]~~ **Exhibition, may be held** under the administration of ~~[the District Board of Agriculture of Agricultural District No. 13,]~~ **a district board of agriculture** and may, at the discretion of the ~~[Board,]~~ **board**, be held in connection with an agricultural district exhibition to include other fields of endeavor.

2. ~~[In addition to its other responsibilities, the Agricultural District shall use all suitable means to]~~ **An agricultural district may** collect and disseminate ~~[throughout the State,]~~ information ~~[calculated to educate and benefit]~~ **regarding** the mineral industries within the State of Nevada, including the petroleum industry.

**Sec. 10.** Chapter 552 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Department has control of all matters pertaining to the apiary industry in this State.**

*2. The Director may adopt regulations to carry out the provisions of this chapter.*

*3. The Director may, after notice and an opportunity for a hearing, impose a civil penalty of not more than \$500 for each violation of this chapter.*

*4. Any money collected from the imposition of a civil penalty pursuant to subsection 3 must be accounted for separately and:*

*(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and*

*(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 11.** NRS 552.170 is hereby amended to read as follows:

552.170 If the owner or person in possession of an apiary neglects or refuses to comply with an order issued under NRS 552.160, the Department may ~~refer the facts to the appropriate district attorney for prosecution under NRS 552.300, and may~~ authorize the inspector or other agent to abate the nuisance by the method prescribed in the order.

**Sec. 12.** NRS 552.280 is hereby amended to read as follows:

552.280 It shall be unlawful for the owner, owners, lessee, lessees, agent or caretaker of any apiary, including appliances, structures, buildings and honey, wherein disease exists, to move or distribute any diseased bees, whether they are queens or workers, colonies, honeycombs, appliances or structures beyond the already established boundaries of such apiary wherein disease exists without written permission from the ~~[Chief Inspector or the Chief Inspector's deputies so to do.]~~ *Director or his or her designee.*

**Sec. 13.** Chapter 554 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. In addition to any criminal penalty imposed pursuant to this chapter, any person violating any provision of this chapter or any regulation adopted pursuant thereto is subject to a civil penalty not to exceed:*

*(a) For the first violation, \$1,500;*

*(b) For a second violation, \$3,000; and*

*(c) For each subsequent violation, \$5,000.*

*2. If a defendant is convicted of violating any provision of this chapter or any regulation adopted pursuant thereto, the court shall order the defendant to pay a civil penalty pursuant to subsection 1. The court shall fix the manner and time of payment.*

*3. Any money collected from the imposition of a civil penalty pursuant to this section must be accounted for separately and:*

*(a) Fifty percent of the money must be used to fund a program selected by the Director of the State Department of Agriculture that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and*



*(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 14.** NRS 554.020 is hereby amended to read as follows:

554.020 1. The State Quarantine Officer may proclaim and enforce a quarantine against any state, territory or district, or any portion of any state, territory or district, relating to the importation into or transportation through this State of any agricultural commodity, burlap, container or other packing material that:

(a) Is infected with, or which may have been exposed to infection with, any contagious or destructive disease, or infested with or exposed to infestation with a parasite, noxious weed, weed seed, propagating part of a plant, or vertebrate or invertebrate pest, or the eggs or larvae thereof; and

(b) Is dangerous to:

(1) The public health or quality of any water in this State; or

(2) Any wildlife, beneficial use of land in or industry of this State.

2. A quarantine must not be issued pursuant to the provisions of NRS 554.020 to ~~§554.090,]~~ **554.080**, inclusive, if the issuance of the quarantine will conflict with the provisions of the Constitution of the United States or any act of the Congress of the United States.

3. The quarantine remains effective until vacated by an order of the State Quarantine Officer.

**Sec. 15.** NRS 554.030 is hereby amended to read as follows:

554.030 1. Any quarantine issued under the provisions of NRS 554.020 to ~~§554.090,]~~ **554.080**, inclusive, may:

(a) Consist of a complete embargo against the importation into or transportation through the State of any agricultural commodity so quarantined against; or

(b) Provide for the importation into or transportation through the State of such agricultural commodity under such rules and regulations as may be set forth and prescribed in the quarantine at the time the same is issued.

2. Any quarantine issued under the provisions of NRS 554.020 to ~~§554.090,]~~ **554.080**, inclusive, shall remain fully in force and effect until dissolved or modified by the State Quarantine Officer, provided:

(a) That the State Quarantine Officer may amend from time to time any quarantine so issued; and

(b) That any such amendments shall be general in their application and shall not apply to any individual shipment or importation.

**Sec. 16.** NRS 554.040 is hereby amended to read as follows:

554.040 When a quarantine is declared as provided in NRS 554.020 to ~~§554.090,]~~ **554.080**, inclusive, against the importation into or transportation through this State of any agricultural commodity from any other state, territory or district, or any portion or portions thereof, a certified copy of such quarantine shall be personally delivered by the State Quarantine Officer or the State Quarantine Officer's representative, or mailed by certified or registered mail, to each of the following:

1. The governor or the proper quarantine official of such state, territory or district.

2. The United States quarantine official having jurisdiction over the same character of quarantine.

3. The state agent or other qualified official of any interstate railroad, express company or other common carrier doing business within this State.

**Sec. 17.** NRS 554.050 is hereby amended to read as follows:

554.050 1. The State Quarantine Officer is designated the authority to administer NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive.

2. Insofar as practicable, the State Quarantine Officer, in carrying out the provisions of NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, shall cooperate with the federal authorities and the quarantine officials of the several states, territories and districts.

**Sec. 18.** NRS 554.060 is hereby amended to read as follows:

554.060 1. Any agricultural commodity imported into or being transported through this State in violation of any quarantine issued pursuant to the provisions of NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, must be immediately seized by the State Quarantine Officer or the State Quarantine Officer's authorized representative and treated in a manner approved by the State Quarantine Officer, or destroyed or sent out of the State within 48 hours, at the option and expense of the owner thereof.

2. If an agricultural commodity is seized by the State Quarantine Officer pursuant to the provisions of subsection 1 and the movement of the agricultural commodity to a point outside of the State would further endanger:

(a) The public health or quality of any water in this State; or

(b) Any wildlife, beneficial use of land in or industry of this State,

↪ the agricultural commodity seized by the State Quarantine Officer must be destroyed as provided in subsection 1.

**Sec. 19.** NRS 554.070 is hereby amended to read as follows:

554.070 It shall be unlawful for any railroad, express company or other common carrier, or any person or persons, to import into or transport through the State of Nevada any agricultural commodity in violation of the provisions of NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, or to make delivery of any such commodity to any person or persons within the limits of this State.

**Sec. 20.** NRS 554.080 is hereby amended to read as follows:

554.080 In any criminal proceeding arising under NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, proof that any commodity, prohibited by proclamation of quarantine from importation into or transportation through this State, was imported into or transported through this State in violation of such quarantine shall be deemed proof within the meaning of NRS 554.020 to ~~[554.090,]~~ **554.080**, inclusive, that the same was diseased, exposed to disease or infested, or exposed to infestation.

**Sec. 21.** NRS 554.240 is hereby amended to read as follows:

554.240 ~~[Any]~~ **Except as otherwise provided in NRS 554.140 and 554.190, any person** ~~[, or any officer, agent or employee of any corporation,~~

~~who shall export, or who shall assist in exporting, as a principal or accessory, any agricultural commodity forbidden to be exported by any proclamation of quarantine shall be}~~ ***who violates any provision of this chapter is guilty of a gross misdemeanor [–] and shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not more than \$5,000, or by both fine and imprisonment. The prosecuting attorney and the State Department of Agriculture may recover the costs of the proceeding, including investigative costs, against a person convicted of a gross misdemeanor pursuant to this section.***

**Sec. 22.** NRS 555.005 is hereby amended to read as follows:

555.005 As used in this chapter, unless the context requires otherwise:

1. “Department” means the State Department of Agriculture.
2. “Director” means the Director of the Department.
3. “Noxious weed” means any species of plant which is, or is likely to be, ***a public nuisance***, detrimental or destructive and difficult to control . ~~{or eradicate.}~~

4. ***“Pest” means any form of animal or vegetable life detrimental to the crops, horticulture, livestock, public health, wildlife, quality of water and beneficial uses of land in this State, including, without limitation, any insect, snail, nematode, fungus, virus, bacterium, microorganism, mycoplasma, weed, parasitic plant or any other plant that is normally considered to be a pest of cultivated plants, uncultivated plants, agricultural commodities, horticultural products or nursery stock, or that the Director declares to be a pest.***

5. “Vertebrate pest” means any animal of the subphylum Vertebrata, except predatory animals, which is normally considered to be a pest, including a gopher, ground squirrel, rat, mouse, starling, blackbird and any other animal which the Director may declare to be a pest.

**Sec. 23.** NRS 555.010 is hereby amended to read as follows:

555.010 Within the limits of any appropriation made by law ~~{, the}~~ :

1. ***The Director may:***

- ~~{1-}~~ (a) Investigate the prevalence of; and
- ~~{2-}~~ (b) Take the necessary action to control,

↪ vertebrate and invertebrate pests of plants and animals, plant diseases, physiological plant disorders and noxious weeds for the protection of the crops, livestock, public health, wildlife, water quality and beneficial uses of land in the State of Nevada.

2. ***The Director may, by regulation, establish and administer a program to certify agricultural products as being free from noxious weeds to support the control and prevention of the spread of noxious weeds in this State and to allow businesses in this State to market those products in compliance with any applicable federal law or regulation or any other requirement specified by the Director.***

**Sec. 24.** NRS 555.100 is hereby amended to read as follows:

555.100 1. The Department shall, if necessary or if a complaint is made to the Department, cause an inspection to be conducted of any premises, land, means of conveyance or article of any person in this State ~~[and]~~ if *it is* found *to be* infested with any pest, **noxious weed** or plant disease that is injurious to:

- (a) The public health or quality of any water in this State; or
- (b) Any wildlife, beneficial use of land or agriculture in this State. ~~[~~

~~the]~~

2. *The* Department may provide a written notice of its findings to the owner or occupant of the premises, land, means of conveyance or article and require the owner or occupant to control ~~[treat or eradicate]~~ the pest, **noxious weed** or plant disease in the manner and within the period specified in the notice.

~~[2.]~~ 3. A notice issued pursuant to the provisions of subsection ~~[1:]~~ 2:

- (a) May be served upon the owner or occupant by an officer or employee of the Department; and
- (b) Must be served in writing, by certified mail or personally, with receipt given therefor.

**Sec. 25.** NRS 555.110 is hereby amended to read as follows:

555.110 1. Any premises found to be infested with any pest, **noxious weed** or plant disease is hereby adjudged and declared to be a public nuisance. If such a nuisance exists at any place within the jurisdiction of the Department and the owner or occupant of the premises, after notification, refuses or neglects to abate the nuisance within the period specified, the Department shall cause the nuisance to be abated at once by ~~[eradicating or]~~ controlling pests, **noxious weeds** or plant diseases in a manner to be determined by the Department.

2. The expense thereof must be paid from any money made available to the Department by direct legislative appropriation or otherwise.

**Sec. 26.** NRS 555.120 is hereby amended to read as follows:

555.120 1. All sums paid by the Department constitute a lien on the property and premises from which the nuisance has been removed or abated pursuant to NRS 555.100 and 555.110, and may be recovered by an action against that property and premises.

2. A notice of lien must be filed and recorded in the office of the county recorder of the county in which the property and premises are situated within 30 days after the right to liens has accrued.

3. An action to foreclose a lien may be commenced at any time within 1 year after the filing and recording of the notice of lien, which action must be brought in the proper court by the district attorney of the county in the name and for the benefit of the Department.

4. If the property is sold, enough of the proceeds must be paid to the Department to satisfy the lien and costs, and the ~~[overplus]~~ **balance remaining**, if any, must be paid to the owner of the property if the owner is known, and if not, into the Court for the owner's use when ascertained. All sales under the provisions of this section and NRS 555.100 and 555.110 must

be made in the same manner and upon the same notice as sales of real property under execution from a Justice Court.

**Sec. 27.** NRS 555.125 is hereby amended to read as follows:

555.125 1. If it appears that an area has or is likely to become infested with a pest which cannot be practically ~~eradicated or~~ controlled except by the means provided in this section, the Department shall hold a public hearing to determine the necessity of declaring a time during which or an area in which plants capable of acting as hosts for the pest may not be planted, grown, cultivated, maintained or allowed to exist.

2. Notice of the hearing must be given to all growers of the host plants within the area and must specify:

- (a) The time and place of the hearing.
- (b) The host plant.
- (c) The pest.
- (d) The purpose of the hearing.

3. If, after the hearing, the Department determines that the pest cannot otherwise be practically ~~eradicated or~~ controlled, the Department shall issue an order prescribing a time during which or an area in which the host plants may not be planted, grown, cultivated, maintained or allowed to exist, and requiring owners or occupiers of property upon which the host plants exist to ~~eradicate~~ **control** the plants.

4. If the owner or occupant neglects or refuses to ~~eradicate~~ **control** the plants, the Department may do so in the manner prescribed by NRS 555.110.

5. Any person violating such an order is ~~guilty of a misdemeanor.~~ **subject to a civil penalty pursuant to NRS 555.201.**

**Sec. 28.** NRS 555.130 is hereby amended to read as follows:

555.130 ~~The~~

**1. Except as otherwise provided in subsection 2, the** State Quarantine Officer may declare by regulation the weeds of the state that are noxious weeds, but a weed must not be designated as noxious which is already introduced and established in the State to such an extent as to make its control ~~for eradication~~ impracticable in the judgment of the State Quarantine Officer.

**2. The State Quarantine Officer may temporarily designate a weed as a noxious weed if he or she determines that immediate control of the weed is necessary. A temporary designation expires 18 months after the State Quarantine Officer makes the designation.**

**Sec. 29.** NRS 555.140 is hereby amended to read as follows:

555.140 1. The State Quarantine Officer shall carry out and enforce the provisions of NRS 555.130 to 555.220, inclusive.

2. To secure information better to carry out the provisions of NRS 555.130 to 555.220, inclusive, the State Quarantine Officer may conduct reasonably limited trials of various methods of controlling ~~for eradicating~~ noxious or potentially noxious weeds under practical Nevada conditions.

3. The State Quarantine Officer may provide supervision and technical advice in connection with any project approved by him or her for the control ~~for eradication~~ of any noxious weed or weeds in this State.

4. All funds appropriated for, or received incident to, the control ~~for eradication~~ of any noxious weeds must be available for carrying out the provisions of NRS 555.130 to 555.220, inclusive.

**Sec. 30.** NRS 555.150 is hereby amended to read as follows:

555.150 Every railroad, canal, ditch or water company, and every person owning, controlling or occupying lands in this State, and every county, incorporated city or district having the supervision and control over streets, alleys, lanes, rights-of-way, or other lands, shall ~~cut, destroy or eradicate~~ **control** all weeds declared and designated as noxious as provided in NRS 555.130 ~~[, before such weeds propagate and spread,]~~ **in any manner specified by** and whenever required by the State Quarantine Officer.

**Sec. 31.** NRS 555.160 is hereby amended to read as follows:

555.160 1. The State Quarantine Officer shall make or cause to be made a careful examination and investigation of the spread, development and growth of noxious weeds in this State. Upon the discovery of those weeds, the State Quarantine Officer shall ascertain the name of the owner or occupant of the land and the description of the land where the weeds are found. The State Quarantine Officer may serve notice in writing upon the owner or occupant of the land to ~~cut, eradicate or destroy~~ **control** the weeds within such time and in such manner as designated and described in the notice. One such notice shall be deemed sufficient for the entire season of weed growth during that year.

2. Notices may be served upon the owner or occupant by an officer or employee of the Department, and must be served in writing, personally or by certified mail, with receipt given therefor.

**Sec. 32.** NRS 555.170 is hereby amended to read as follows:

555.170 1. If any owner or occupant of the lands described in the notice served, as provided in NRS 555.160, shall fail, neglect or refuse to ~~cut, destroy or eradicate~~ **control** the weeds designated, upon the land described, in accordance with the requirements of the notice, the State Quarantine Officer may notify the board of county commissioners of the county or counties in which the land is located of such failure, neglect or refusal.

2. Upon notice as provided in subsection 1, the board of county commissioners concerned shall proceed to ~~have cut, destroyed or eradicated~~ **control** the weeds in question in accordance with the requirements of the notice served upon the owner or occupant of the land in question, paying for such ~~cutting, destruction or eradication~~ **control** out of county funds.

3. Upon the completion of ~~[such work of cutting, destruction or eradication of such]~~ **the work of controlling the** weeds, the board of county commissioners shall prepare in triplicate itemized statements of all expenses incurred in ~~[the cutting, destruction or eradication of]~~ **controlling** the weeds involved, and shall deliver the three copies of the statements to the county treasurer within 10 days of the date of the completion of the work involved.

**Sec. 33.** NRS 555.180 is hereby amended to read as follows:

555.180 1. Upon receipt of the itemized statements of the cost of ~~cutting, destroying or eradication of such~~ **controlling the** weeds ~~[,] pursuant to NRS 555.170,~~ the county treasurer shall forthwith mail one copy to the owner or occupant of the land on which the weeds were ~~cut, destroyed or eradicated,] controlled,~~ together with a statement that objections may be made to the whole or any part of the statement so filed to the board of county commissioners within 30 days. A hearing may be had upon any objections made.

2. If any objections to any statement are filed with the board of county commissioners, the board shall set a date for a hearing, giving due notice thereof, and upon the hearing fix and determine the actual cost of ~~cutting, destroying or eradicating] controlling~~ the weeds and report its findings to the county treasurer.

3. If no objections to the items of the accounts so filed are made within 30 days ~~of] after~~ the date of mailing the itemized statement, the county treasurer shall enter the amount of such statement upon his or her tax roll in a column prepared for that purpose; and within 10 days ~~from] after~~ the date of the action of the board of county commissioners upon objections filed, the county treasurer shall enter the amount found by the board of county commissioners as the actual cost of ~~cutting, destroying or eradicating] controlling~~ the weeds in the prepared column upon the tax roll.

4. If current tax notices have been mailed, the costs may be carried over on the rolls to the year following. The costs incurred shall be a lien upon the land from which the weeds were ~~cut, destroyed or eradicated,] controlled,~~ and shall be collected as provided by law for the collection of other liens.

**Sec. 34.** NRS 555.190 is hereby amended to read as follows:

555.190 Any expense incurred by any county in ~~the cutting, destroying or eradicating of] controlling~~ noxious weeds from any street, lane, alley or other property owned or controlled by an incorporated city in that city, in accordance with the provisions of NRS 555.170, must be repaid to the county from the general fund of the incorporated city, upon presentation to the governing body of the incorporated city of an itemized statement of the expense so incurred.

**Sec. 35.** NRS 555.200 is hereby amended to read as follows:

555.200 1. Whenever a noxious weed is found growing upon the public domain or any other lands in this State owned by the Federal Government, the State Quarantine Officer may serve notice, as provided in NRS 555.160, upon the person within the county or this State who is in charge of the activities of the federal agency having control or jurisdiction of the land.

2. If the agency described in the notice fails or refuses to comply with the notice, the State Quarantine Officer may provide for the ~~cutting, destruction or eradication] control~~ of the weeds in any manner permitted by federal law. The State Quarantine Officer or the political subdivision shall seek

reimbursement from the Federal Government for any expense incurred by the State or the political subdivision pursuant to this section.

**Sec. 36.** NRS 555.201 is hereby amended to read as follows:

555.201 Any person violating any of the provisions of NRS 555.130 to 555.200, inclusive, or failing, refusing or neglecting to perform or observe any conditions or regulations prescribed by the State Quarantine Officer, in accordance with the provisions of NRS 555.130 to 555.200, inclusive, is ~~guilty of a misdemeanor.~~ ***subject to a civil penalty not to exceed:***

- 1. For the first violation, \$250.***
- 2. For a second violation, \$500.***
- 3. For each subsequent violation, \$1,000.***

**Sec. 37.** NRS 555.203 is hereby amended to read as follows:

555.203 1. The board of county commissioners of any county may, in accordance with chapter 308 of NRS, create one or more weed control districts in that portion of the county which lies outside any incorporated city. Creation of such a district may be initiated by the board of county commissioners or by a petition which:

(a) Designates the area to be included in the weed control district, either as the entire unincorporated area of the county or by sections or parts of sections with appropriate township and range references; and

(b) Is signed by an owner of land within the proposed weed control district.

2. Lands proposed for inclusion in a weed control district need not be contiguous.

3. Before creating a weed control district, the board of county commissioners shall:

(a) Hold at least one public hearing pursuant to NRS 308.070. At this hearing, the board of county commissioners shall entertain applications for the exclusion of lands, designated by sections or parts of sections as prescribed in subsection 1, from the proposed district, if any such application is made. The board of county commissioners shall exclude any such lands as to which it is shown to their satisfaction that any weeds which exist on that land do not render substantially more difficult the control of weeds on other lands in the proposed district.

(b) Provide for the hearing of protests against the establishment of the district in the manner set forth in NRS 318.065 and 318.070.

4. The board of trustees of a general improvement district may, in accordance with NRS 318.077, add to the basic powers of the district the control ~~and eradication~~ of noxious weeds.

**Sec. 38.** NRS 555.208 is hereby amended to read as follows:

555.208 1. The board of directors of a weed control district or the board of county commissioners of any county having lands situated in a weed control district or proposed for inclusion in such a district may request that the State Board of Agriculture review any action taken by the board of county commissioners of a county, or the board of directors of the district, in



connection with the creation of the district or a change in the boundaries of the district.

2. Upon receiving such a request the State Board of Agriculture shall, after notice and opportunity for a hearing, affirm or reverse the action. The decision of the State Board of Agriculture is a final decision for purposes of judicial review.

3. This section does not limit the right of any landowner to seek judicial review of actions taken by a board of directors or a board of county commissioners in connection with the creation of a district or a change in the boundaries of a district.

**4. *A landowner may seek the removal of a member of the board of directors of that district for cause. A decision of the State Board of Agriculture made pursuant to this subsection is a final decision for the purpose of judicial review.***

**Sec. 39.** NRS 555.220 is hereby amended to read as follows:

555.220 Any person violating any of the provisions of NRS 555.202 to 555.210, inclusive, or failing, refusing or neglecting to perform or observe any conditions or regulations prescribed by the State Quarantine Officer, in accordance with the provisions of NRS 555.202 to 555.210, inclusive, is ~~guilty of a misdemeanor.~~ **subject to a civil penalty not to exceed:**

1. ***For the first violation, \$250.***
2. ***For a second violation, \$500.***
3. ***For each subsequent violation, \$1,000.***

**Sec. 40.** NRS 555.267 is hereby amended to read as follows:

555.267 “Pesticide” ~~means:~~ **includes, without limitation:**

1. Any substance or mixture of substances, including any living organisms or any product derived therefrom or any fungicide, herbicide, insecticide, nematocide or rodenticide, intended to prevent, destroy, control, repel, attract or mitigate any insect, rodent, nematode, snail, slug, fungus and weed and any other form of plant or animal life or virus, except virus on or in a living human or other animal, which is normally considered to be a pest or which the Director declares to be a pest.

2. Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant, and any other substances intended for that use as are named by the Director by regulation.

**Sec. 41.** NRS 555.2695 is hereby amended to read as follows:

555.2695 “Wildlife” means all living things that are neither human, domesticated ~~[,] nor [as defined in NRS 555.2665,]~~ pests, including but not limited to mammals, birds and aquatic life.

**Sec. 42.** NRS 555.310 is hereby amended to read as follows:

555.310 1. The Director shall collect from each person applying for the examination or reexamination a testing fee established by regulation of the ~~[State Board of Agriculture.]~~ **Director.**

2. ~~[Upon the successful completion of the testing, the]~~ **The** Director shall, before the license is issued, collect from each person applying for a license for

pest control an annual fee established by regulation of the ~~{State Board of Agriculture}~~ **Director**. Any ~~company or~~ person employing primary principals, principals, operators or agents shall pay to the Director a fee established by regulation of the ~~Board~~ **Director** for each primary principal, principal, operator or agent licensed.

**Sec. 43.** NRS 555.570 is hereby amended to read as follows:

555.570 **1.** Any person violating any of the provisions of NRS 555.500 to 555.560, inclusive, or failing, refusing or neglecting to perform or observe any conditions or regulation prescribed by the State Board of Agriculture, in accordance with the provisions of NRS 555.500 to 555.540, inclusive, is ~~[guilty of a misdemeanor.]~~ **subject to a civil penalty not to exceed:**

(a) **For the first violation, \$250.**

(b) **For a second violation, \$500.**

(c) **For each subsequent violation, \$1,000.**

**2. Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:**

(a) **Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and**

(b) **The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.**

**Sec. 44.** ~~[NRS 556.110 is hereby amended to read as follows:~~

~~556.110 **1.** A person who violates any of the provisions of this chapter is [guilty of a misdemeanor.] subject to a civil penalty not to exceed:~~

~~(a) **For the first violation, \$250.**~~

~~(b) **For a second violation, \$500.**~~

~~(c) **For each subsequent violation, \$1,000.**~~

~~**2. Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:**~~

~~(a) **Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and**~~

~~(b) **The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.] (Deleted by amendment.)**~~

**Sec. 45.** NRS 233B.039 is hereby amended to read as follows:

233B.039 **1.** The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to ~~NRS 590.830~~ **section 84 of this act**.

(n) The Silver State Health Insurance Exchange.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) NRS 90.800 for the use of summary orders in contested cases, ➤ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694; or

(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

**Sec. 46.** NRS 318.116 is hereby amended to read as follows:

318.116 Any one, all or any combination of the following basic powers may be granted to a district in proceedings for its organization, or its reorganization pursuant to NRS 318.077 and all provisions in this chapter supplemental thereto, or as may be otherwise provided by statute:

1. Furnishing electric light and power, as provided in NRS 318.117;
2. Extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or *Fasciola hepatica*, as provided in NRS 318.118;
3. Furnishing facilities or services for public cemeteries, as provided in NRS 318.119;
4. Furnishing facilities for swimming pools, as provided in NRS 318.1191;
5. Furnishing facilities for television, as provided in NRS 318.1192;
6. Furnishing facilities for FM radio, as provided in NRS 318.1187;
7. Furnishing streets and alleys, as provided in NRS 318.120;
8. Furnishing curbs, gutters and sidewalks, as provided in NRS 318.125;
9. Furnishing sidewalks, as provided in NRS 318.130;
10. Furnishing facilities for storm drainage or flood control, as provided in NRS 318.135;
11. Furnishing sanitary facilities for sewerage, as provided in NRS 318.140;
12. Furnishing facilities for lighting streets, as provided in NRS 318.141;
13. Furnishing facilities for the collection and disposal of garbage and refuse, as provided in NRS 318.142;
14. Furnishing recreational facilities, as provided in NRS 318.143;
15. Furnishing facilities for water, as provided in NRS 318.144;
16. Furnishing fencing, as provided in NRS 318.1195;
17. Furnishing facilities for protection from fire, as provided in NRS 318.1181;
18. Furnishing energy for space heating, as provided in NRS 318.1175;
19. Furnishing emergency medical services, as provided in NRS 318.1185;
20. Control ~~and eradication~~ of noxious weeds, as provided in chapter 555 of NRS; and
21. Establishing, controlling, managing and operating an area or zone for the preservation of one or more species or subspecies of wildlife that has been

declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq., as provided in NRS 318.1177.

**Sec. 47.** NRS 360A.020 is hereby amended to read as follows:

360A.020 The Department shall adopt:

1. Such regulations as are necessary to carry out the provisions of this chapter.

2. Regulations providing for:

(a) The electronic submission of returns to the Department; and

(b) The payment to the Department of any amount required to be paid pursuant to this chapter or chapter 365, 366 or 373 of NRS, or NRS 590.120 or ~~590.840~~ **section 86 of this act** through the use of credit cards, debit cards and electronic transfers of money.

**Sec. 48.** NRS 360A.040 is hereby amended to read as follows:

360A.040 1. If a check or other method of payment submitted to the Department for payment of any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** is returned to the Department or otherwise dishonored upon presentation for payment, the Department:

(a) Shall charge an additional fee in the amount established by the State Controller pursuant to NRS 353C.115 for handling the check or other method of payment; and

(b) Except as otherwise provided in NRS 353.1467, may require that any future payments be made by cashier's check, traveler's check, money order or cash.

2. If a check or other method of payment is submitted to the Department for payment of a tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** on or before the date the tax or fee is due, but is afterward returned to the Department or otherwise dishonored upon presentation for payment, the submission of the check or other method of payment shall be deemed not to constitute timely payment of the tax or fee.

**Sec. 49.** NRS 360A.050 is hereby amended to read as follows:

360A.050 If the Department grants an extension of time for paying any amount required to be paid pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act**, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of 1 percent per month from the date the amount would have been due without the extension until the date of payment.

**Sec. 50.** NRS 360A.060 is hereby amended to read as follows:

360A.060 Unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~590.840~~ **section 86 of this act** to this State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee that is owed, as

determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment.

**Sec. 51.** NRS 360A.070 is hereby amended to read as follows:

360A.070 1. If the Director of the Department or a hearing officer designated by the Director finds that the failure of a person to make a timely return or payment of a tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** is the result of circumstances beyond the control of the person and occurred despite the exercise of ordinary care and without willful neglect, the Department may relieve the person of all or part of any interest or penalty, or both.

2. A person requesting relief must file with the Department a statement signed, under penalty of perjury, that sets forth the facts upon which the person bases his or her claim for relief.

3. The Department shall disclose, upon the request of any person:

- (a) The name of the person to whom relief was granted; and
- (b) The amount of the relief.

**Sec. 52.** NRS 360A.080 is hereby amended to read as follows:

360A.080 The Department may:

1. Enter into a written agreement with a person who is required to pay the taxes or fees required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** for the payment of delinquent taxes or fees, interest or penalties imposed pursuant to those provisions.

2. Adopt regulations providing for:

(a) The payment of delinquent taxes or fees, interest or penalties upon the execution of a written agreement between the Department and such a person; and

(b) The cancellation of such an agreement if the person becomes delinquent in his or her payment of the delinquent taxes or fees, interest or penalties owed to the Department pursuant to the provisions of chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act**.

**Sec. 53.** NRS 360A.090 is hereby amended to read as follows:

360A.090 1. The amounts, including interest and penalties, required to be paid by a person pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** must be satisfied first if:

- (a) The person is insolvent;
- (b) The person makes a voluntary assignment of his or her assets;
- (c) The estate of the person in the hands of executors, administrators or heirs, before distribution, is insufficient to pay all the debts due from the deceased; or

(d) The estate and effects of an absconding, concealed or absent person required to pay any amount by force of such a revenue act are levied upon by process of law.

2. This section does not give the State of Nevada a preference over:

(a) Any recorded lien that attached before the date when the amounts required to be paid became a lien; or

(b) Any costs of administration, funeral expenses, expenses of personal illness, family allowances or debts preferred pursuant to federal law or wages as provided in NRS 147.195.

**Sec. 54.** NRS 360A.100 is hereby amended to read as follows:

360A.100 Except as otherwise provided in NRS 366.395:

1. If a person fails to file a return or the Department is not satisfied with the return of any tax or fee required to be paid to the Department pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~§ 590.840,~~ **section 86 of this act**, the Department may determine the amount required to be paid upon the basis of:

(a) The facts contained in the return;

(b) Any information that is in the possession of the Department or may come into its possession; or

(c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or more periods.

3. In making its determination of the amount required to be paid, the Department shall impose a penalty and interest on the amount of tax or fee determined to be due, calculated at the rate and in the manner set forth in NRS 360A.060.

4. If a business is discontinued, a determination may be made at any time thereafter within the period prescribed in NRS 360A.150 concerning liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

**Sec. 55.** NRS 360A.120 is hereby amended to read as follows:

360A.120 If any part of the deficiency for which a deficiency determination is made is because of negligence or intentional disregard of any applicable provision of chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~§ 590.840,~~ **section 86 of this act**, or the regulations of the Department adopted pursuant thereto, a penalty of 10 percent of the amount of the determination must be added thereto.

**Sec. 56.** NRS 360A.130 is hereby amended to read as follows:

360A.130 If any part of the deficiency for which a deficiency determination is made is because of fraud or an intent to evade the payment of a tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~§ 590.840,~~ **section 86 of this act**, or the regulations of the Department adopted pursuant thereto, a penalty of 25 percent of the amount of the determination must be added thereto.

**Sec. 57.** NRS 360A.150 is hereby amended to read as follows:

360A.150 1. Except as otherwise provided in subsections 2, 3 and 5, each notice of a deficiency determination issued by the Department must be personally served, mailed or, pursuant to subsection 4, sent by electronic mail within 4 years after the last day of the month following the period for which

the amount is proposed to be determined or within 4 years after the return is filed, whichever period expires later.

2. In the case of a failure to make a return or a claim for an additional amount, each notice of determination must be mailed, personally served or, pursuant to subsection 4, sent by electronic mail within 8 years after the last day of the month following the period for which the amount is proposed to be determined.

3. If, before the expiration of the time prescribed in this section for the service of a notice of determination, the taxpayer has signed a waiver consenting to the service of the notice after that time, the notice may be mailed, personally served or, pursuant to subsection 4, sent by electronic mail at any time before the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing if each agreement is made before the expiration of the period previously agreed upon.

4. The provision by a person to the Department of an electronic mail address shall be deemed an agreement for the purposes of NRS 719.220 to receive notice pursuant to this section by electronic mail. If served by electronic mail, the notice must be sent to the person at his or her electronic mail address as it appears in the records of the Department and service is complete at the time the electronic mail is sent.

5. This section does not apply to cases of fraud or the intentional evasion of a provision of chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act**, or any regulation of the Department adopted pursuant thereto.

**Sec. 58.** NRS 360A.230 is hereby amended to read as follows:

360A.230 If the Department believes that the collection of any amount of taxes or fees due pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** will be jeopardized by delay, the Department shall make a determination of the amount required to be collected and serve notice of the determination upon the person against whom it is made.

**Sec. 59.** NRS 360A.260 is hereby amended to read as follows:

360A.260 1. If a person who is delinquent in the payment of any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** has not paid the amount of a deficiency determination, the Department may bring an action in a court of this State, a court of any other state or a court of the United States to collect the delinquent or deficient amount, penalties and interest. The action must be brought not later than 3 years after the payment became delinquent or the determination became final or within 5 years after the last recording of an abstract of judgment or of a certificate constituting a lien for the tax or fee owed.

2. The Attorney General shall prosecute the action. The provisions of NRS and the Nevada Rules of Civil Procedure and Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings. In the action, a writ of attachment may issue. A bond or affidavit is not required before an attachment may be issued.



3. In the action, a certificate by the Department showing the delinquency is prima facie evidence of:

- (a) The determination of the tax or fee or the amount of the tax or fee;
- (b) The delinquency of the amounts; and
- (c) The compliance by the Department with the procedures required by law related to the computation and determination of the amounts.

**Sec. 60.** NRS 360A.270 is hereby amended to read as follows:

360A.270 1. If, with respect to any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act**, a person:

- (a) Fails to pay the tax or fee when due according to his or her return filed with the Department;
- (b) Fails to pay a deficiency determination when due; or
- (c) Defaults on a payment pursuant to a written agreement with the Department,

↪ the Department may, within 3 years after the amount is due, file in the office of the clerk of any court of competent jurisdiction an application for the entry of a summary judgment for the amount due.

2. The application must be accompanied by a certificate that specifies:

- (a) The amount required to be paid, including any interest and penalties due;
- (b) The name and address of the person liable for the payment, as they appear on the records of the Department;
- (c) The basis for the determination of the Department of the amount due; and

(d) That the Department has complied with the applicable provisions of law relating to the determination of the amount required to be paid.

3. The application must include a request that judgment be entered against the person in the amount required to be paid, including any interest and penalties due, as set forth in the certificate.

**Sec. 61.** NRS 360A.330 is hereby amended to read as follows:

360A.330 1. If any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act**, is not paid when due, the Department may, within 3 years after the date that the tax or fee became due, file for record a certificate in the office of any county recorder which states:

- (a) The amount of the tax or fee and any interest or penalties due;
- (b) The name and address of the person who is liable for the amount due as they appear on the records of the Department; and
- (c) That the Department has complied with the procedures required by law for determining the amount due.

2. From the time of the filing of the certificate, the amount due, including interest and penalties, constitutes a lien upon all real and personal property in the county owned by the person or acquired by the person afterwards and before the lien expires. The lien has the effect and priority of a judgment lien

and continues for 5 years after the time of the filing of the certificate unless sooner released or otherwise discharged.

3. Within 5 years after the date of the filing of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by filing for record a new certificate in the office of the county recorder of any county. From the time of filing, the lien is extended to all real and personal property in the county owned by the person or acquired by the person afterwards for 5 years, unless sooner released or otherwise discharged.

**Sec. 62.** NRS 360A.350 is hereby amended to read as follows:

360A.350 1. The Department or its authorized representative may issue a warrant for the enforcement of a lien and for the collection of any delinquent taxes or fees required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840.]~~ **section 86 of this act:**

(a) Within 3 years after the person is delinquent in the payment of the tax or fee; or

(b) Within 5 years after the last recording of an abstract of judgment or of a certificate constituting a lien for the tax or fee.

2. The warrant must be directed to a sheriff or constable and has the same effect as a writ of execution.

3. The warrant must be levied and sale made pursuant to the warrant in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

**Sec. 63.** NRS 360A.370 is hereby amended to read as follows:

360A.370 1. If a person is delinquent in the payment of any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840.]~~ **section 86 of this act**, or if a determination has been made against the person that remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 5 years after the last recording of an abstract of judgment or of a certificate constituting a lien for the tax or fee owed,

➤ give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent taxpayer, or owing any debts to the delinquent taxpayer or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent taxpayer or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before it presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the persons so notified may not transfer or otherwise dispose of the credits, other personal property, or debts in their possession or under their control at the time they received the notice until the Department consents to a transfer or other disposition.

4. Each person so notified shall, within 10 days after receipt of the demand to transmit, inform the Department of, and transmit to the Department all such credits, other personal property, or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served upon that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing that person to continue to transmit payments to the Department or that his or her duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank or other depository institution, the notice must be delivered or mailed to the branch or office of the bank or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person so notified makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he or she is liable to this State for any indebtedness due pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition, this State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

**Sec. 64.** NRS 360A.390 is hereby amended to read as follows:

360A.390 1. If a person who is liable for any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~[590.840]~~ **section 86 of this act** sells any portion of his or her business or stock of goods not in the ordinary course of business or quits the business, the successors or assignees of that person shall:

(a) If the business or stock of goods was purchased for money, withhold from the purchase price the amount due; or

(b) If the business or stock of goods was not purchased for money, withhold a sufficient portion of the assets of the business or stock of goods which, if sold, would equal the amount due,

↪ until the former owner provides the successors or assignees with a receipt or certificate from the Department indicating that he or she paid the amount due.

2. A successor or assignee who fails to withhold the amount required pursuant to subsection 1 becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the consideration paid for the business or stock of goods, valued in money.

3. The Department shall issue a certificate of the amount due to the successor or assignee:

(a) Not later than 60 days after receiving a written request from the successor or assignee for such a certificate; or

(b) Not later than 60 days after the date the records of the former owner are made available for audit,

↪ whichever period expires later, but not later than 90 days after receiving the request.

4. If the Department fails to mail the certificate, the successor or assignee is released from any further obligation to withhold any portion of the purchase price, business or stock of goods.

5. The time within which the obligation of the successor or assignee may be enforced begins when the person who is liable for the tax or fee sells or assigns all or any portion of his or her business or stock of goods or when the determination against the person becomes final, whichever occurs later.

**Sec. 65.** NRS 360A.400 is hereby amended to read as follows:

360A.400 1. At any time within 3 years after a person has become delinquent in the payment of any amount of taxes or fees due pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or ~~{590.840,}~~ ***section 86 of this act***, the Department may seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due, together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

2. Any seizure made to collect a tax or fee due may be only of the property of the person not exempt from execution under the provisions of law.

**Sec. 66.** NRS 408.242 is hereby amended to read as follows:

408.242 1. The Department shall establish an account in the State Highway Fund to be administered by the Director. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account must be used exclusively for the construction, reconstruction, improvement and maintenance of public roads.

2. The account consists of:

(a) The money transferred to the account pursuant to ~~{NRS 590.860,}~~ ***section 88 of this act***;

(b) All income and interest earned on the money in the account; and

(c) All other money received by the account from any source.

3. On July 1 and December 31 of each year, the Director shall allocate:

(a) Seventy percent of the money in the account to a regional transportation commission in a county whose population is 700,000 or more;

(b) Twenty percent of the money in the account to a regional transportation commission in a county whose population is 100,000 or more but less than 700,000; and

(c) Ten percent of the money in the account to the Department for use in counties that have a population of less than 100,000.

**Sec. 67.** Chapter 445C of NRS is hereby amended by adding thereto the provisions set forth as sections 68 to 94, inclusive of this act.

**Sec. 68.** *As used in sections 68 to 94, inclusive of this act, unless the context otherwise requires, the words and terms defined in sections 68 to 81, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 69.** *“Board” means the Board to Review Claims.*

**Sec. 70.** *“Department” means the Department of Motor Vehicles.*

**Sec. 71.** *“Diesel fuel of grade number 1” means a distillate from fuel oil which is of high volatility and used in high-speed diesel engines generally operated under variations in speed and load. The term includes diesel fuel of the type “C-B,” generally used in buses and similar operations.*

**Sec. 72.** *“Diesel fuel of grade number 2” means a distillate from gas oil which is of low volatility and used in high-speed diesel engines generally operated under uniform speed and load. The term includes diesel fuel of the type “R-R,” generally used in railroad locomotives, and type “T-T,” generally used in trucks with diesel engines.*

**Sec. 73.** *“Discharge” means any release, leaking or spilling from a storage tank into water or soil, unless the discharge is authorized by state or federal law.*

**Sec. 74.** *“Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

**Sec. 75.** *“Fund” means the Fund for Cleaning Up Discharges of Petroleum.*

**Sec. 76.** *“Heating oil” means diesel fuel of grade number 1 or 2 or any other form of petroleum used in an oil-fired furnace or boiler for space heating.*

**Sec. 77.** *“Motor vehicle fuel” has the meaning ascribed to it in NRS 365.060.*

**Sec. 78.** *“Operator” means a person who owns, controls or is responsible for the operation of a storage tank.*

**Sec. 79.** *“Person” includes the United States, this State, and any agency or political subdivision of this State.*

**Sec. 80.** *“Petroleum” means crude oil or any fraction thereof which is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.*

Sec. 81. *“Storage tank” means any tank used to store petroleum, except petroleum for use in a chemical process.*

Sec. 82. *The Legislature finds that:*

1. *Protection of this State’s environment, particularly its supplies of water, requires the prompt cleaning up of any discharge of petroleum from a storage tank.*

2. *Federal law and regulations require each operator of a storage tank to show financial responsibility for this purpose, but the capital of smaller operators is too little to meet these requirements and insurance to cover this liability is prohibitively costly for these smaller operators.*

3. *Free competitive access to the business of distributing petroleum therefore requires a system of funding this liability in which all engaged in the business must participate equitably.*

4. *The fee imposed by section 86 of this act is not an excise tax but a fee for engaging in the refining or importation of motor vehicle fuel, diesel fuel of grade number 1, diesel fuel of grade number 2 and heating oil.*

Sec. 83. 1. *The Board to Review Claims is hereby created in the Division. The Board consists of:*

- (a) The Administrator of the Division;*
- (b) The Director of the Department;*
- (c) The State Fire Marshal;*
- (d) A representative of refiners of petroleum;*
- (e) A representative of independent dealers in petroleum;*
- (f) A representative of independent retailers of petroleum; and*
- (g) A representative of the general public.*

2. *An officer designated as a member of the Board may designate a substitute. The Governor shall appoint the respective representatives designated as members of the Board. Each representative of a field of enterprise must be appointed from a list of three persons nominated by persons engaged in that field in this State, through their trade association if one exists.*

3. *The Board shall select its Chair. The Administrator of the Division shall provide administrative assistance to the Board as required.*

4. *Each member who is appointed by the Governor is entitled to receive a salary of not more than \$80, as fixed by the Board, for each day’s attendance at a meeting of the Board.*

5. *While engaged in the business of the Board, each member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

Sec. 84. 1. *The Fund for Cleaning Up Discharges of Petroleum is hereby created as a special revenue fund in the State Treasury. The Division shall administer the Fund for the purposes prescribed in sections 68 to 94, inclusive, of this act, and the Board shall adopt appropriate regulations for the investigation and payment of claims against the Fund. The Board shall*

*review each claim presented and authorize payment to the extent warranted by the facts of the case.*

*2. The expenses incurred by the Division in performing its duties pursuant to sections 68 to 94, inclusive, of this act are a charge against the Fund. The interest earned on money in the Fund must be credited to the Fund.*

*3. The Board shall transmit a copy of any resolution that the Board has adopted in carrying out its duties pursuant to this section to the Legislative Counsel within 5 working days after the adoption of the resolution for inclusion in the register of administrative regulations published pursuant to NRS 233B.0653.*

**Sec. 85.** *Notwithstanding any provision of sections 68 to 94, inclusive, of this act to the contrary, and except as otherwise provided in this section:*

*1. The Division may expend not more than \$250,000 from the Fund per year as reimbursement for necessary costs incurred by the Division in the response to and cleanup of any discharge involving petroleum, including discharges from a storage tank and discharges from a mobile tank that occur during the transportation of petroleum on roads and highways. If the discharge involving petroleum also involves the discharge of another hazardous material, the Division may expend money pursuant to this section in the cleanup of the discharge of petroleum and the other hazardous material. The Division shall not expend money from the Fund pursuant to this section to clean up discharges involving petroleum from pipelines.*

*2. Except as otherwise provided in this subsection, money from the Fund expended by the Division pursuant to this section must be used to augment, and must not be used to replace or supplant, any money available from other sources for the cleanup of discharges of petroleum, including, without limitation, reimbursements by operators required to be made to the Division pursuant to sections 87 and 89 of this act. If no money is available from those other sources, the Division may expend money from the Fund pursuant to this section to reimburse the Division for any costs specified in subsection 1.*

*3. If the Division expends money pursuant to this section to clean up a discharge involving petroleum, the operator of the tank shall reimburse the Division for the operator's share of the costs for cleaning up the discharge. The Division shall, upon being reimbursed by the operator of the tank pursuant to this subsection, deposit that money in the Fund.*

*4. As used in this section:*

*(a) "Discharge" means any release, leaking or spilling from a tank into water or soil, unless the discharge is authorized by state or federal law.*

*(b) "Operator" means a person who owns, controls or is responsible for the operation of a tank.*

*(c) "Tank" means a storage tank or a mobile tank used to transport petroleum received for sale or use in this State.*

**Sec. 86.** *1. Except as otherwise provided in subsection 2, the Department shall collect for deposit in the Fund a fee of 0.75 cent for each*

*gallon of motor vehicle fuel, diesel fuel of grade number 1, diesel fuel of grade number 2 and heating oil imported into this State in one of those forms or refined in this State. The fee imposed by this section is in addition to the taxes imposed by chapters 365 and 366 of NRS.*

*2. The fee imposed by subsection 1 does not apply to motor vehicle fuel, diesel fuel of grade number 1, diesel fuel of grade number 2 or heating oil that is:*

*(a) Imported or refined by the United States, its unincorporated agencies and instrumentalities, or any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;*

*(b) Exported from this State;*

*(c) Imported or refined by railroad companies for use in locomotive engines;*

*(d) Being transported through this State in interstate commerce; or*

*(e) Used as fuel for jet or turbine-powered aircraft.*

*3. The fee is payable on or before the last day of each calendar month for those products subject to the fee that are handled during the preceding calendar month. The Department shall prescribe by regulation the manner of payment of the fee and for this purpose may reasonably classify the persons liable for payment. The Department may, in collecting the fee, employ any administrative power conferred upon it by chapter 360A or 365 of NRS.*

*4. The expenses incurred by the Department in performing its duties under sections 68 to 94, inclusive, of this act are a charge against the Fund.*

*Sec. 87. 1. Except as otherwise provided in subsection 2, the Division shall collect for deposit in the Fund an annual fee not to exceed \$100, set by the Board, for the registration of each storage tank.*

*2. No fee is to be collected, and no registration is required, with respect to a storage tank used to store heating oil for consumption on the same premises where the oil is stored, or a storage tank operated by a person not required to pay the fee for petroleum produced in or imported into this State.*

*3. The operator of a storage tank required to be registered pursuant to this section who fails to register that tank or to pay the annual fee when required shall reimburse the Division for any expense incurred by the Division in cleaning up a discharge from that storage tank and for any discharge of liability to a third person. If, in cleaning up the discharge from that storage tank, the Division expends money from the Fund in accordance with section 85 of this act, the Division shall, upon being reimbursed by the operator of the storage tank pursuant to this subsection, deposit that money in the Fund.*

*Sec. 88. If the balance in the Fund for Cleaning Up Discharges of Petroleum at the end of any fiscal year is estimated at \$7,500,000 or more, the Department shall transfer to the account created pursuant to*



*NRS 408.242 the balance in the Fund for Cleaning Up Discharges of Petroleum which exceeds \$7,500,000.*

*Sec. 89. 1. The operator of every storage tank, and every person who for compensation puts petroleum into a storage tank, shall report to the Division every discharge from that tank of which the operator or other person is aware or has reason to believe has occurred. The Division shall undertake or contract for cleaning up the discharge unless the operator or another person is already acting properly to clean it up. If the Division cleans up the discharge, the operator shall reimburse the Division for the operator's share of the costs. If, in cleaning up the discharge, the Division expends money from the Fund in accordance with section 85 of this act, the Division shall, upon being reimbursed by the operator of the storage tank pursuant to this subsection, deposit that money in the Fund.*

*2. Each operator who is required or who chooses to register a tank must, unless the tank has been tested for tightness under the federal standards embodied in 40 C.F.R. § 280.43c since July 1, 1988, test the tank pursuant to those standards before it is eligible for the coverage provided by sections 90 and 91 of this act.*

*Sec. 90. The costs resulting from a discharge from a storage tank which has a capacity of 1,100 gallons or less and is used to store heating oil for consumption on the same premises where the oil is stored must be paid as follows, to the extent applicable:*

*1. The first \$250 for cleaning up and the first \$250 of liability for damages to a person other than this State or the operator of the tank, or both amounts, by the operator.*

*2. If necessary to protect the environment or the public health and safety, the next \$250,000 for cleaning up and the next \$250,000 for damages to a person other than this State or the operator of the tank, or both amounts, from the Fund. These limits apply to any one discharge and to the total for discharges from storage tanks controlled by any one operator in any fiscal year. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.*

*3. Any further cost for cleaning up or for damages, by the operator.*

*Sec. 91. If the costs resulting from a discharge from any other storage tank exceed \$5,000, the costs must be paid as follows, to the extent applicable:*

*1. By an operator which is an agency, department, division or political subdivision of the State, 10 percent or \$10,000, whichever is less, of the first \$1,000,000 for cleaning up each tank and of the first \$1,000,000 of liability for damages from each tank to any person other than this State or the operator of the tank, or both amounts. The balance of the first \$1,000,000 for cleaning up each tank or for damages from each tank must be paid from the Fund, but the total amount paid from the Fund pursuant to this subsection in any one fiscal year for discharges from two or more storage*

tanks under the control of any one operator must not exceed \$1,980,000 for cleaning up and \$1,980,000 for damages.

2. By an operator which is a small business, 10 percent of the first \$1,000,000 for cleaning up each tank and of the first \$1,000,000 of liability for damages from each tank to a person other than this State or the operator of the tank, or both amounts. The total amount paid by an operator pursuant to this subsection must not exceed \$50,000 for cleaning up and \$50,000 for damages regardless of the number of storage tanks involved. The balance of the first \$1,000,000 for cleaning up each tank or for damages from each tank must be paid from the Fund, but the total amount paid from the Fund pursuant to this subsection in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed \$1,900,000 for cleaning up and \$1,900,000 for damages. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.

3. By all other operators:

(a) Ten percent of the first \$1,000,000 for cleaning up each tank and of the first \$1,000,000 of liability for damages from each tank to a person other than this State or the operator of the tank, or both amounts.

(b) Ninety percent of the first \$1,000,000 for cleaning up each tank or for damages from each tank must be paid from the Fund.

↪ The total amount paid from the Fund pursuant to paragraph (b) in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed \$1,800,000 for cleaning up and \$1,800,000 for damages. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.

4. Any further cost for cleaning up or for damages which is in excess of the amounts paid pursuant to subsections 1, 2 and 3 must be paid by the operator.

5. A political subdivision of the State that receives money from the Fund pursuant to subsection 1 to pay for the costs of cleaning up shall hold one public hearing upon initiation of the cleanup and one public hearing every 3 months thereafter until the cleanup is completed to ensure that the cleanup complies with any requirements of the Division concerning the cost-effectiveness of cleaning up. The costs incurred by the political subdivision for the hearing must not be attributed to the political subdivision as part of the costs paid by the political subdivision pursuant to subsection 1.

6. For the purposes of this section, a small business is a business which receives less than \$500,000 in gross annual receipts from the site where the tank is located.

Sec. 92. 1. Any person who, through willful or wanton misconduct, through gross negligence or through violation of any applicable statute or regulation, including specifically any state or federal standard pertaining to the preparation or maintenance of sites for storage tanks, proximately

*causes a discharge is liable to the Division for any cost in cleaning up the discharge or paying for it to be cleaned up.*

*2. If a discharge occurs, the site of the tank and any other premises affected by the discharge must be brought into compliance with any applicable standard as described in subsection 1.*

**Sec. 93.** *If the balance in the Fund is insufficient to pay in full all amounts payable from it under sections 68 to 94, inclusive, of this act, these amounts must be reduced pro rata and the amounts so withheld must be paid pro rata as additional money becomes available in the Fund.*

**Sec. 94. 1.** *Except as otherwise specifically provided in section 85 of this act, the provisions of sections 87 to 93, inclusive, of this act do not apply to any tank which:*

*(a) Contains petroleum being transported through this State in interstate commerce, but do apply to a tank being used to store petroleum received for sale or use in this State;*

*(b) Contains fuel for jet or turbine-powered aircraft, or is above ground and has a capacity of 30,000 gallons or less, unless in either case the operator complies with subsection 2; or*

*(c) Is above ground and has a capacity of more than 30,000 gallons.*

*2. The operator of a tank exempted by paragraph (b) of subsection 1 may obtain the coverage provided by sections 90 and 91 of this act by applying to the Board, paying the fee set pursuant to section 87 of this act for its registration, and, if the tank is used to store fuel for jet or turbine-powered aircraft, reporting monthly the number of gallons of fuel put into the tank and paying the fee required by section 86 of this act. Coverage pursuant to this subsection begins 6 months after the tank is registered and the required fee first paid.*

**Sec. 95.** NRS 445C.010 is hereby amended to read as follows:

445C.010 As used in ~~[this chapter]~~ **NRS 445C.010 to 445C.120, inclusive**, unless the context otherwise requires, the words and terms defined in NRS 445C.020 to 445C.060, inclusive, have the meanings ascribed to them in those sections.

**Sec. 96.** NRS 445C.110 is hereby amended to read as follows:

445C.110 1. Except as otherwise provided in this section, an environmental audit conducted pursuant to the provisions of ~~[this chapter]~~ **NRS 445C.010 to 445C.120, inclusive**, shall be deemed privileged and is not admissible in an administrative proceeding or civil action against the regulated person who conducted the audit or the regulated facility which is owned or operated by the regulated person.

2. The privilege provided by subsection 1 does not apply if:

(a) A regulatory agency requests the admission of the results of an environmental audit at an administrative proceeding or civil action commenced by the regulatory agency;

(b) The regulated person expressly waives the privilege; or

(c) A court or administrative hearing officer determines in camera that the presumption against administrative or civil liability is rebutted pursuant to NRS 445C.090.

3. For the purposes of paragraph (b) of subsection 2, a regulated person does not waive the privilege if he or she voluntarily discloses, pursuant to NRS 445C.010 to 445C.120, inclusive, the results of an environmental audit or a violation of an environmental requirement discovered as a result of an environmental audit to a regulatory agency.

4. This section does not prohibit a person or entity from:

(a) Obtaining information concerning a violation of an environmental requirement from a source independent of an environmental audit.

(b) Commencing an administrative proceeding or civil or criminal action against a regulated person or a regulated facility which is owned or operated by a regulated person based upon information that was obtained from a source independent of an environmental audit.

(c) Intervening in a proceeding or action filed against a regulated person or regulated facility if the intervention is specifically authorized by statute or regulation.

**Sec. 96.5.** Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

***Any person who knowingly sells any flesh of any diseased animal or any container containing shellfish, if the container does not have an approved stamp authorized by the Division of Public and Behavioral Health of the Department of Health and Human Services, is guilty of a gross misdemeanor.***

**Sec. 96.7.** NRS 446.945 is hereby amended to read as follows:

446.945 ~~[Any]~~ ***Except as otherwise provided in section 96.5 of this act,*** any person who violates any of the provisions of this chapter is guilty of a misdemeanor. In addition thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

**Sec. 97.** NRS 561.301 is hereby amended to read as follows:

561.301 Aquatic agriculture, which includes the propagation, cultivation and harvesting of plants ***or animals*** indigenous to water in a ***man-made***, controlled or selected aquatic environment for the commercial production of food, is one of the agricultural enterprises conducted in this state. The Department shall promote, protect and regulate aquatic agriculture to the extent that the Department is authorized to regulate other forms of agriculture and other agricultural products. The Department shall confer with the Department of Wildlife regarding aquatic agriculture to prevent any adverse effects on existing aquatic animals.

**Sec. 98.** NRS 561.305 is hereby amended to read as follows:

561.305 The Department shall establish and maintain a laboratory for the following purposes:

1. The diagnosis of infectious, contagious and parasitic diseases of animals, as may be necessary under the provisions of chapter 571 of NRS.

2. The diagnosis of infectious, contagious and parasitic diseases of bees, as may be necessary under the provisions of chapter 552 of NRS.

3. The diagnosis of infectious, contagious and destructive diseases of agricultural commodities, and infestations thereof by pests, as may be necessary under the provisions of chapter 554 of NRS.

4. The survey and identification of insect pests, plant diseases and noxious weeds, and the maintenance of a herbarium, as may be necessary under the provisions of NRS 555.005 to 555.249, inclusive.

5. The testing of pesticides, as may be necessary under the provisions of NRS 555.2605 to 555.460, inclusive, and ~~{586.010 to 586.450, inclusive.}~~ **chapter 586 of NRS.**

6. The safekeeping and maintenance of official standards of weights and measures, as may be necessary under the provisions of chapter 581 of NRS.

7. The testing and grading of agricultural products and the testing of the purity and germinating power of agricultural seeds and the testing of the spray residue contained in produce, as may be necessary under the provisions of chapter 587 of NRS.

8. The analysis and testing of commercial fertilizers and agricultural minerals, as may be necessary under the provisions of chapter 588 of NRS.

9. The analysis and testing of petroleum products or motor vehicle fuel, as may be necessary under the provisions of NRS 590.010 to 590.150, inclusive.

10. The analysis and testing of antifreeze, as may be necessary under the provisions of NRS 590.340 to 590.450, inclusive.

11. Any laboratory examinations, diagnoses, analyses or testing as may be deemed necessary by the Director and which can be made with equipment available in any such laboratory. Any resident of this State may submit samples to the Department for examination, diagnosis, analysis or testing, subject to such rules and regulations as may be adopted by the Director.

**Sec. 99.** ~~{NRS 561.315 is hereby amended to read as follows:  
561.315 The Director may fix the maximum number of **field inspections that may be conducted or laboratory** samples that may be examined, diagnosed, analyzed or tested [in the Department's laboratory] free of charge for any one **public agency**, natural person, group or corporation in any one period, and may fix reasonable fees for [samples submitted] **any services provided** in excess of those [tested] **provided** free of charge.}~~ **(Deleted by amendment.)**

**Sec. 100.** NRS 561.355 is hereby amended to read as follows:

561.355 1. The Plant Industry Program is hereby established.

2. The following fees and money must be used in the Plant Industry Program:

(a) ~~{Fees}~~ **Except as otherwise provided in NRS 555.570 and section 10 of this act, fees** and money collected pursuant to the provisions of chapters 552, 555 and 587 of NRS.

(b) Laboratory fees collected for the diagnosis of infectious, contagious and parasitic diseases of bees, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 552 of NRS.

(c) Laboratory fees collected for the diagnosis of infectious, contagious and destructive diseases of agricultural commodities, and infestations thereof by pests, as authorized by NRS 561.305, and as may be necessary pursuant to the provisions of chapter 554 of NRS.

(d) Laboratory fees collected for the survey and identification of insect pests, plant diseases and noxious weeds, as authorized by NRS 561.305, and as may be necessary pursuant to the provisions of NRS 555.005 to 555.249, inclusive.

(e) Laboratory fees collected for the testing of the purity and germinating power of agricultural seeds, as authorized by NRS 561.305, and as may be necessary pursuant to the provisions of NRS 587.015 to 587.123, inclusive.

(f) Money received from a tax on the transfer of real property imposed pursuant to NRS 375.026.

3. Expenditures for the Plant Industry Program must be made only for the purposes of carrying out the provisions of this chapter and chapters 552, 554, 555 and 587 of NRS.

4. The money credited to the Program pursuant to NRS 375.026 must be allocated for disbursement to each county in proportion to the amount of money collected in that county and must only be used:

(a) By the Department for programs on the exclusion, detection and control of:

(1) Invasive species; and

(2) Endemic pests and weeds designated by the Director; and

(b) For grants to local governments and nonprofit organizations for the control or management of such species, pests and weeds.

5. As used in this section:

(a) "Invasive species" means any living organism not native to this State that may present a threat to the economy, environment or public health of this State.

(b) "Local government" has the meaning ascribed to it in NRS 237.050.

**Sec. 101.** NRS 561.385 is hereby amended to read as follows:

561.385 1. The Agriculture Registration and Enforcement Account is hereby created in the State General Fund for the use of the Department.

2. The following fees must be deposited in the Agriculture Registration and Enforcement Account:

(a) Except as otherwise provided in NRS 586.270 ~~and 586.450~~, fees collected pursuant to the provisions of *chapter 586 of NRS*. ~~[586.010 to 586.450, inclusive.]~~

(b) Fees collected pursuant to the provisions of chapter 588 of NRS.

(c) Fees collected pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

(d) Laboratory fees collected for the testing of pesticides as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 555.2605 to 555.460, inclusive, and ~~[586.010 to 586.450, inclusive.]~~, ***except as otherwise provided in NRS 586.270 and 586.450, chapter 586 of NRS.***

(e) Laboratory fees collected for the analysis and testing of commercial fertilizers and agricultural minerals, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 588 of NRS.

(f) Laboratory fees collected for the analysis and testing of petroleum products or motor vehicle fuel, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.010 to 590.150, inclusive.

(g) Laboratory fees collected for the analysis and testing of antifreeze, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

3. Expenditures from the Agriculture Registration and Enforcement Account may be made to carry out the provisions of this chapter, NRS 555.2605 to 555.460, inclusive, or chapters 586, 588 and 590 of NRS or for any other purpose authorized by the Legislature.

**Sec. 102.** ~~[NRS 562.170 is hereby amended to read as follows:~~  
~~562.170 1. Except as otherwise provided in this section, the rate of tax fixed by the Board, as provided for in NRS 562.160, must not exceed the equivalent of [18 cents] \$1.50 per head on all sheep. The minimum tax that must be paid annually by an owner of sheep is [\$5.] \$5.00.~~  
~~2. The tax paid by an owner of sheep must be deposited in the [state or county treasury in which] State Treasury for credit to the State Sheep Inspection [Account is located for credit to that] Account. The money in the State Sheep Inspection Account must be made available and disbursed by the [proper state or county officials] State Controller upon request of the Board for the purposes provided for in this chapter.] (Deleted by amendment.)~~

**Sec. 103.** NRS 562.200 is hereby amended to read as follows:

562.200 All contributions of money which the Board is authorized to accept and which are made by any organization interested in the welfare of the sheep industry must be deposited by the Board with the ~~[state or county treasurer who has custody of]~~ ***State Treasury for credit to*** the State Sheep Inspection ~~[Account for credit to that]~~ Account. The money in the Account must be disbursed by the ~~[proper state or county officials]~~ ***State Controller*** when ordered by the Board in accordance with the purposes for which each contribution was made.

**Sec. 104.** NRS 562.210 is hereby amended to read as follows:

562.210 1. The Board may encourage, promote, advance and protect the sheep interests of the State and may, directly or indirectly, by expenditure or by payment or otherwise to any association formed for any such purposes or objects, pay annually, out of the State Sheep Inspection Account, for any enumerated purposes, not to exceed the equivalent of ~~[10 cents]~~ ***50 percent*** of the levy assessed pursuant to NRS 562.170.

2. The Board is the sole and exclusive judge of the expenditures of all sums directly or by the payment to any association, club or other organization pursuant to this section.

**Sec. 105.** NRS 562.230 is hereby amended to read as follows:

562.230 ~~[Whenever any inspector files in the office of the] The State Controller [or county treasurer who has custody of the State Sheep Inspection Account]~~ **shall draw a warrant or check payable out of the State Sheep Inspection Account to any inspector who files** proper vouchers or claims, duly approved by the Board, setting forth:

1. The name of the inspector;
2. The kind and nature of service rendered;
3. The particular locality where the work was done;
4. The length of time employed;
5. The number of sheep inspected and the name of the owner or person in charge of the sheep;
6. The disease or diseases treated, and the length of time of the treatment; and
7. The amount claimed for the services . ~~↳ the State Controller or county treasurer shall draw a warrant or check in favor of the inspector, payable out of the money in the State Sheep Inspection Account.]~~

**Sec. 106.** (Deleted by amendment.)

**Sec. 107.** (Deleted by amendment.)

**Sec. 108.** NRS 573.020 is hereby amended to read as follows:

573.020 1. A person shall not hold, operate, conduct or carry on a public livestock auction in this state without first securing a license therefor from the Department.

2. The application for a license must be on a form prescribed and furnished by the Department and set forth:

- (a) The name of the operator of the public livestock auction.
- (b) The location of the establishment or premises where the public livestock auction will be conducted.
- (c) The type or kinds of livestock to be handled, sold or exchanged.
- (d) A description of the facilities that will be used to conduct the public livestock auction.
- (e) The weekly or monthly sales day or days on which the applicant proposes to operate the applicant's public livestock auction.
- (f) The name and address of the bank or credit union where the custodial account for consignors' proceeds will be established and maintained by the operator of the public livestock auction in compliance with the provisions of NRS 573.104.

(g) Such other information as the Department reasonably may require, including, without limitation, proof that at the time of application the applicant has a line of credit established at a bank or credit union in the State of Nevada in ~~an~~ **the** amount ~~[at least equal to the estimated average weekly gross sales~~



~~receipts of the public livestock auction that will be conducted by the applicant.]~~  
*of \$400,000 or more.*

3. The application must be accompanied by a bond or deposit receipt and the required fee as provided in this chapter.

**Sec. 109.** NRS 573.033 is hereby amended to read as follows:

573.033 1. If an applicant delivers a surety bond to the Director pursuant to the provisions of subsection 1 of NRS 573.030, the surety bond must be:

(a) In the ~~[sum provided for in subsection 2.]~~ *amount of \$200,000 or more but less than \$1,000,000.*

(b) Executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety.

(c) A standard form and approved by the Director as to terms and conditions.

(d) Conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this chapter and the rules and regulations adopted by the Department.

(e) To the State of Nevada in favor of every consignor creditor whose livestock was handled or sold through or at the licensee's public livestock auction.

2. ~~[If the application for a license to operate a public livestock auction is submitted by a person who:~~

~~—(a) Has not operated in the past 12 month period, the Director shall determine the sum of the initial bond that the applicant must execute in favor of the State, which sum must be equal to an amount estimated to be 50 percent of the average monthly gross sales proceeds of the public livestock auction in the first 6 months of operation, but the sum must not be less than \$10,000 or more than \$100,000. At any time within the first 12 months of licensed operation, the Director may, upon written notice to the licensee, review the licensee's operations and determine whether, because of increased or decreased sales, the amount of the bond should be altered.~~

~~—(b) Has operated in the past 12 month period, the Director shall determine the sum of the bond that the applicant must execute in favor of the State, which sum must be equal to an amount equal to 50 percent of the average monthly gross sales proceeds received by the public livestock auction during the 6 successive months of the last 12 month period which produced the highest dollar volume, but the sum must not be less than \$10,000 or more than \$100,000.~~

~~—3.]~~ The total and aggregate liability of the surety for all claims upon the bond must be limited to the face amount of the bond.

**Sec. 110.** NRS 573.050 is hereby amended to read as follows:

573.050 Upon receipt of an application for a license under this chapter, accompanied by the required bond and license fee, the Department shall examine the application, and if it finds the application to be in proper form and that the applicant has otherwise complied with this chapter, the ~~[Department]~~

**Director or his or her designee** shall grant **and sign** the license as applied for, subject to the provisions of this chapter.

**Sec. 111.** NRS 573.080 is hereby amended to read as follows:

573.080 Licenses ~~[shall]~~ **must** be renewed annually upon like application and procedure as in the case of original licenses. ***An application for renewal must be accompanied by:***

1. ***A full audit completed not more than 2 months before the date of the application which must be signed and certified as correct by a holder of a live permit issued pursuant to chapter 628 of NRS.***

2. ***The name and address of the bank or credit union where the custodial account for consignors' proceeds will be established and maintained by the operator of the public livestock auction in compliance with the provisions of NRS 573.104.***

**Sec. 112.** NRS 573.103 is hereby amended to read as follows:

573.103 ~~[1. Except as otherwise provided in subsection 2, every operator of a public livestock auction shall cause his or her accounts to be audited at least annually by a holder of a live permit under chapter 628 of NRS, and shall file with the Director a copy of the audit, signed and certified as correct by the auditor. The Director may prescribe by regulation the content and times for filing of the audits.~~

~~—2.]~~ Every operator ***of a public livestock auction*** whose accounts are audited under the provisions of the Packers and Stockyards Act, 7 U.S.C. § 204, as amended, shall file a copy of each such audit with the Director.

**Sec. 113.** NRS 573.105 is hereby amended to read as follows:

573.105 ~~[The Director shall ascertain, at least quarterly, the continued existence and]~~ ***An operator of a public livestock auction shall notify the Department within 30 days after any change in the*** amount of the line of credit shown pursuant to paragraph (g) of subsection 2 of NRS 573.020, or its replacement by a line of credit at another bank or credit union in the State of Nevada and the amount of the replacement. If the line of credit is replaced, the custodial account must be transferred to the bank or credit union issuing the new line of credit. If a line of credit in the amount required is not maintained, the Director shall suspend the operator's license.

**Sec. 114.** NRS 573.140 is hereby amended to read as follows:

573.140 1. The yards, pens and premises where livestock is held or handled ~~[shall]~~ **must** be ~~[regularly]~~ cleaned and ~~[disinfected]~~ **maintained** for the purpose of preventing infectious, contagious or parasitic livestock diseases.

2. If livestock is held on the premises for more than 10 hours, then facilities for feeding and watering the livestock so held ~~[shall]~~ **must** be provided.

**Sec. 115.** NRS 573.180 is hereby amended to read as follows:

573.180 None of the provisions of this chapter shall be deemed to apply to the Nevada ~~[Fair or]~~ Mineral ~~[Industries,]~~ ***Exhibition***, 4-H clubs, ***the Future Farmers of America***, the Nevada Junior Livestock Show, the Nevada State

Livestock Show, the Nevada Hereford Association, and any other organization or association which is entirely nonprofit in character.

**Sec. 116.** NRS 573.190 is hereby amended to read as follows:

573.190 1. Any person who operates a public livestock auction without a license required by this chapter, or who violates any of the provisions of this chapter or of any rules or regulations adopted pursuant thereto, is guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the Department an administrative fine of not ~~more~~ **less** than \$1,000 **and not more than \$5,000** per violation. If an administrative fine is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Department.

2. Each day's operation in which livestock is sold or exchanged at any unlicensed public livestock auction constitutes a separate offense.

3. ***Any money collected from the imposition of an administrative fine pursuant to subsection 1 must be accounted for separately and:***

(a) ***Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and***

(b) ***The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.***

**Sec. 117.** NRS 575.120 is hereby amended to read as follows:

575.120 The Department shall ~~prepare~~ **provide** a ~~form for~~ declaration of livestock and sheep on which an owner of livestock or sheep shall declare the average number, kind and classification of all livestock and sheep in the State owned by him or her during the year immediately preceding the date the declaration is made.

**Sec. 118.** NRS 575.130 is hereby amended to read as follows:

575.130 1. The Department shall ~~mail~~ **provide** the ~~form for~~ declaration to each owner of livestock or sheep listed in its most current report of such owners. ~~[The Department may include the form with any other mailing sent to that owner.]~~

2. An owner of livestock or sheep who fails to complete ~~and return the form for~~ **a** declaration within 30 days after the date it was ~~mailed~~ **provided** to him or her is subject to a penalty of \$5 assessed by the Department.

**Sec. 119.** NRS 575.150 is hereby amended to read as follows:

575.150 1. Upon receipt of the ~~forms for~~ declaration of livestock and sheep and the report of owners of livestock and sheep, the Department shall:

(a) Make an estimate of the number, kind and classification of all livestock and sheep owned by any person failing to return the ~~form for~~ declaration of livestock and sheep and include that information on the report; and

(b) Examine each completed ~~form for~~ declaration of livestock and sheep and the report to determine its accuracy, and if there is any evidence that any information is inaccurate or incomplete, may change and correct any listing as to number, kind, classification, ownership or location by adding thereto or deducting therefrom as necessary to make the report complete and accurate.

2. The Department may verify the number of livestock or sheep by any reasonable means, including actual count at any reasonable time.

3. If the Department changes the listings on the report of owners of livestock and sheep for any owner and the listing for that owner does not conform to the listings on the ~~[form for]~~ declaration completed by that owner, the Department shall notify the owner of the change within 15 days after the change is made. The notification must contain a statement explaining the owner's right to challenge the accuracy of the report made by the Department.

**Sec. 120.** Chapter 576 of NRS is hereby amended by adding thereto the provisions set forth as sections 121 to 125, inclusive, of this act.

**Sec. 121.** *"Agricultural product" means a product of the soil, a farm product and any product commonly used to enhance agricultural production, including, without limitation, a product produced by hydroponic or aquatic farming. The term does not include a product inspected by a federal or other state agency.*

**Sec. 122.** *"Free-sale certificate" means a document which certifies that an agricultural product which is proposed to be exported is the same type of agricultural product freely marketed and sold in this State.*

**Sec. 123.** *"Produce vendor" means any person engaged in the sale of farm products other than any poultry, livestock or livestock product.*

**Sec. 124.** *The Department may provide a free-sale certificate for an agricultural product if:*

1. *An application is submitted in the manner prescribed by the Director;*
2. *The applicant is located in this State; and*
3. *The agricultural product is grown, produced or processed in this State*

~~1.5 and~~  
~~4. The applicant pays a fee in an amount determined by the Department.~~

**Sec. 125.** 1. *Except as otherwise provided in subsection ~~1.5~~ 2, the Department shall adopt regulations pursuant to which a person must register as a produce vendor.*

2. ~~{The Department may impose fees for the registration of a person as a produce vendor and any inspections necessary for that registration.~~

~~3. A person who obtains certification pursuant to NRS 576.128 is not required to register as a produce vendor pursuant to this section.~~

**Sec. 126.** NRS 576.010 is hereby amended to read as follows:

576.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 576.0115 to 576.018, inclusive, *and sections 121, 122 and 123 of this act* have the meanings ascribed to them in those sections.

**Sec. 127.** NRS 576.030 is hereby amended to read as follows:

576.030 1. Every person, before acting as a broker, dealer, commission merchant or agent, shall file an application with the Department for a license to transact such business. Separate applications must be filed for each class of business.

2. The application must be on a form prescribed and furnished by the Department and must set forth:

(a) The full name of the person applying for the license. If the applicant is a firm, exchange, association or corporation, the full name of each member of the firm, or the names of the officers of the exchange, association or corporation must be given in the application.

(b) If the applicant is a natural person, the social security number of the applicant.

(c) The principal business address of the applicant in this State and elsewhere.

(d) The name of the person authorized to accept service of summons and legal notice of all kinds for the applicant.

(e) The names and addresses of all persons by whom the applicant has been employed for a period of 3 years immediately preceding the making of the application.

(f) A complete statement of the applicant's business activity for the 3 years immediately preceding the making of the application which is not covered by paragraph (e).

~~(g) [A statement of whether the applicant has ever been arrested for any crime other than a traffic violation punishable by a fine of \$25 or less and, if so, when and where, the nature of the crime charged, the disposition of the charge, the title and address of the police officers having custody of the record of arrest, and the names and locations of all the courts before which any proceedings in connection with the arrest took place.~~

~~—(h) A statement of whether the applicant has ever been a party in a civil suit and, if so, the nature of the suit, whether the applicant was the plaintiff or the defendant, the disposition of the suit, and, if the applicant was the defendant and lost, whether there is a judgment or any portion thereof which remains unpaid.~~

~~—(i) The county or counties in which the applicant proposes to engage in business.~~

~~{(j)}~~ **(h)** The class or classes of farm products the applicant proposes to handle.

~~{(k)}~~ **(i)** Such other information as the Department may reasonably require.

3. In addition to the general requirements applicable to all classes of applications as set forth in subsection 2, ~~[the following requirements apply to the class of applications specified in this subsection:~~

~~—(a) Commission merchants. Each application must include a complete schedule of commissions and an itemized listing of all charges for all services. Any services rendered for which charges are made, if not listed in the schedule on the application, must be rendered on a strictly cost basis.~~

~~—(b) Agents. Each~~ **each** application **for a license as an agent** must be in the same form as an application for a license as a broker, dealer or commission merchant, and must include the name and address of the broker, dealer or commission merchant represented or sought to be represented by the agent,

and the written endorsement or nomination of the broker, dealer or commission merchant.

4. The application must be accompanied by an executed instrument whereby the applicant:

(a) Appoints and constitutes the Director and the Director's successor or successors in office the true and lawful attorney of the applicant upon whom all lawful process in any action or legal proceeding against the applicant arising in this State from a transaction under the provisions of this chapter may be served; and

(b) Agrees that any lawful process against the applicant which may be served upon the applicant's attorney as provided in this subsection is of the same force and validity as if served upon the applicant and that the authority thereof continues in force irrevocably as long as any liability of the applicant in the State remains outstanding.

**Sec. 128.** NRS 576.035 is hereby amended to read as follows:

576.035 1. ~~{The Department shall require the applicant for a license as a broker, dealer, commission merchant or agent to make a showing of character, responsibility and good faith in seeking to carry on the business stated in the application, and may make investigations, hold hearings and make determinations regarding those matters.~~

~~—2. If the applicant is a corporation or partnership, it shall satisfy the Department of the character, responsibility and good faith of all persons connected with it in a responsible or managing position, including the manager, superintendent, officer and director.~~

~~—3. Failure of any person to satisfy the Department of the person's character, responsibility or good faith may be considered by the Department as adverse to a showing of such qualifications and is sufficient grounds for the denial of an application for a license or of the renewal thereof.~~ A previous conviction of a felony, previous bankruptcy, voluntary or involuntary, or previous violation of this chapter may be considered by the Department as adverse to a showing of ~~{such}~~ character, responsibility or good faith on the part of ~~{the}~~ *an* applicant ~~{-~~

~~—4.} for a license as a broker, dealer, commission merchant or agent.~~

2. Any person adjudged a bankrupt, or any person against whose bondsman or bondsmen or deposit in lieu of bond a claim has been collected by a court order, who has not made full settlement with all producer-creditors, may not be licensed by the Department for 3 years after the date of the adjudication or collection.

~~{5-}~~ 3. The Department may refuse to accept a new application for a license by an applicant rejected pursuant to this section for a period not exceeding 3 years after the date of rejection of the first application.

**Sec. 129.** NRS 576.042 is hereby amended to read as follows:

576.042 1. Any:

(a) Producer of livestock or farm products or the producer's agent or consignee ~~{-}~~ *or produce vendor*;

(b) Licensed broker, dealer or commission merchant; or

(c) Nonprofit organization or association, including the Nevada ~~[[Fair of]]~~ Mineral ~~[[Industries]]~~ **Exhibition**, 4-H clubs, **the Future Farmers of America**, the Nevada Junior Livestock Show, the Nevada State Livestock Show and the Nevada Hereford Association,

↪ who is injured by any violation of the provisions of this chapter, or by any misrepresentations or fraud on the part of any licensed dealer, broker or commission merchant, may maintain a civil action against the dealer, broker or commission merchant. If the dealer, broker or commission merchant is licensed, he or she may also maintain an action against the surety on any bonds, or the money or securities deposited in lieu of a bond. In such an action against an unlicensed dealer, broker or commission merchant, the injured person is entitled to treble damages.

2. Any person having a claim pursuant to subsection 1 against any licensed dealer, broker or commission merchant must begin legal action on any bond, or money or securities deposited in lieu of a bond, for recovery of the amount claimed to be due within 1 year after the claim has accrued.

3. Pursuant to subsection 4 of NRS 576.030, process may be served by delivering to the Director duplicate copies of the process and paying a fee established by regulation of the State Board of Agriculture. The service upon the Director shall be deemed service upon the dealer, broker or commission merchant. The Director shall forward one copy of the process by registered mail prepaid to the defendant dealer, broker or commission merchant, specifying the day and hour of service. The return receipt of the defendant is prima facie evidence of the completion of service. If service of summons is made upon the Director in accordance with the provisions of this subsection, the period within which the defendant must appear is extended 10 days. The provisions of this subsection are not exclusive, but if a defendant dealer, broker or commission merchant is found within the State of Nevada, he or she must be served with process in the State of Nevada.

**Sec. 130.** NRS 576.048 is hereby amended to read as follows:

576.048 1. If the Department receives notice from a producer of livestock or farm products or the producer's agent or consignee **or produce vendor** of the default of a licensed dealer, broker or commission merchant, the Department shall issue an order to the licensee to show cause why his or her license should not be revoked. The notice must be in writing and set forth a time and place for a hearing to be held before the Director.

2. If a license is revoked pursuant to subsection 1, the Director shall, by publication in a newspaper of general circulation in the area, notify all known producers of livestock or farm products in the area in which the licensee operated that the license has been revoked.

**Sec. 131.** NRS 576.100 is hereby amended to read as follows:

576.100 1. An agent shall not act for any dealer, broker or commission merchant unless:

(a) The dealer, broker or commission merchant is licensed and has designated the agent to act in his or her behalf; and

(b) The Department has been notified in writing and has approved the appointment of the agent.

2. The dealer, broker or commission merchant is accountable and responsible for contracts made by his or her agents.

3. An agent must, before approval by the Department, file an application with the Department pursuant to ~~paragraph (b) of~~ subsection 3 of NRS 576.030.

**Sec. 132.** NRS 576.120 is hereby amended to read as follows:

576.120 1. The Department may refuse to grant or renew a license or ~~registration as provided in subsection 4 of NRS 576.140 or~~ may suspend or revoke a license ~~for registration as provided in subsection 4 of NRS 576.140~~ if, after notice and a hearing, the Department is satisfied of the existence of any of the following facts, the existence of which is hereby declared to be a violation of this chapter:

(a) That the applicant or licensee has intentionally made any false or misleading statement concerning the conditions of the market for any farm products.

(b) That the applicant or licensee has made fictitious sales or has been guilty of collusion to defraud the producer.

(c) That the licensee was intentionally guilty of fraud or deception in the procurement of the license.

(d) That the applicant or licensee has in the handling of any farm products been guilty of fraud, deceit or willful negligence.

(e) That the licensee, without reasonable cause, has failed or refused to execute or carry out a lawful contract with a producer.

(f) That the licensee, without reasonable cause, has issued checks for the payment of farm products received without sufficient money to cover them or has stopped payment on a check given in payment for farm products received.

(g) That the licensee, without reasonable cause, has failed to account or make payment for farm products as required by this chapter.

(h) That the licensee has knowingly employed an agent without causing the agent to comply with the licensing requirements of this chapter applicable to agents.

(i) That the licensee has failed or refused to maintain and file records as required by this chapter.

(j) That the licensee has failed or refused to maintain a bond or other security as required by the provisions of NRS 576.040.

2. The Department may suspend, pending inquiry, for not longer than 30 days, and after hearing or investigation may refuse to grant, renew or revoke any license as the case may require, if it is satisfied that the licensee has become bankrupt or insolvent, and is thereby unable to pay producer-creditors of the licensee, or producers with whom the licensee has executory or executed



contracts for the purchase of farm products, or for the handling of farm products on consignment.

3. A license is suspended automatically, without action of the Department, if the bond filed pursuant to subsection 1 of NRS 576.040 is cancelled, and remains suspended until the bond is renewed.

4. In the case of any hearing held under the provisions of this section, there must be filed in the office of the Department a memorandum stating briefly the reasons of the Department for the denial, suspension or revocation of the license, but formal findings of fact need not be made or filed.

**Sec. 133.** NRS 576.128 is hereby amended to read as follows:

576.128 1. The Department shall adopt regulations pursuant to which a person ~~[may obtain certification that the person]~~ **who** is an actual producer of farm products other than any livestock, livestock product or poultry ~~[.]~~ **must obtain certification as an actual producer of farm products.** The regulations may include provisions for the certification by reciprocity of a person who holds a similar certification from another jurisdiction where the requirements for that certification are substantially equal to the requirements in this state.

2. The Department may impose fees for the certification of a person as an actual producer of farm products specified in subsection 1 and any inspections necessary for that certification. The fees must be set in an amount which approximates the cost to the Department of performing those services and activities.

3. A person who obtains certification pursuant to this section is exempt from any:

(a) Tax or other fee imposed pursuant to NRS 244.335, 266.355, subsection 7 of NRS 266.600, NRS 268.095, 269.170 or 269.175, relating to the issuance of any license to sell or offer to sell, in its natural and unprocessed state directly to any consumer, restaurant or grocery store, farm products specified in subsection 1 for which the person has obtained certification pursuant to this section.

(b) Fee imposed for:

(1) The issuance of a permit pursuant to the provisions of chapter 446 of NRS to sell or offer to sell, in its natural and unprocessed state directly to any consumer, restaurant or grocery store, farm products specified in subsection 1 for which the person has obtained certification pursuant to this section; or

(2) Any inspection conducted pursuant to the provisions of chapter 446 of NRS relating to such a sale or offer to sell.

**Sec. 134.** NRS 576.140 is hereby amended to read as follows:

576.140 Except as otherwise provided in NRS 576.042, the provisions of this chapter do not apply to:

1. The Nevada ~~[Fair of]~~ Mineral ~~[Industries,]~~ **Exhibition**, 4-H clubs, **the Future Farmers of America**, the Nevada Junior Livestock Show, the Nevada State Livestock Show, the Nevada Hereford Association, or any other nonprofit organization or association.

2. Any railroad transporting livestock interstate or intrastate.

3. Any farmer or rancher purchasing or receiving livestock for grazing, pasturing or feeding on his or her premises within the State of Nevada and not for immediate resale.

4. Operators of public livestock auctions as defined in NRS 573.010, and all buyers of livestock at those auctions at which the public livestock auction licensee does not control title or ownership to the livestock being sold or purchased at those auctions, and any person buying for interstate shipments only and subject to and operating under a bond required by the United States pursuant to the provisions of the Packers and Stockyards Act, 7 U.S.C. § 204, and the regulations adopted pursuant to those provisions. ~~Each person exempted by the provisions of this subsection shall register annually with the Department, giving the location of his or her place of business, the number of his or her license and bond and the expiration date thereof. Each such registrant shall pay an annual registration fee of \$40 to the Department.~~

5. Any farmer or rancher whose farm or ranch is located in the State of Nevada, who buys or receives farm products or livestock from another farmer or rancher not for immediate resale.

6. Any retail merchant having a fixed and established place of business in this state and who conducts a retail business exclusively.

**Sec. 135.** NRS 576.150 is hereby amended to read as follows:

576.150 1. Except as otherwise provided by a specific statute, a person who acts as a dealer, broker, commission merchant or agent without a license therefor as required by the provisions of this chapter, or who violates any other provision of this chapter, or any of the regulations lawfully adopted pursuant to provisions of this chapter, is guilty of a misdemeanor. If the violation relates to the failure to make payment for farm products, an intent to defraud must be proven before a misdemeanor or other penalty may be imposed.

2. Any prosecution brought pursuant to this chapter may be brought in any county of this State in which the defendant or any one of the defendants resides, or in which the unlawful act was committed, or in which the defendant or any one of the defendants has his or her principal place of business.

3. In addition to any criminal penalty imposed pursuant to, or any remedy provided by, this chapter, the Director, after notice and a hearing in an administrative proceeding, may issue an order against any person who has violated any provision of this chapter or any regulation adopted pursuant to this chapter imposing a civil penalty of not more than \$5,000 for each violation. ~~[Any civil penalty collected pursuant to this subsection must be deposited in the State General Fund.]~~

*4. Any money collected from the imposition of a civil penalty pursuant to subsection 3 must be accounted for separately and:*

*(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and*

*(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 136.** NRS 581.067 is hereby amended to read as follows:

581.067 The State Sealer of Consumer Equitability shall:

1. Adopt regulations establishing such primary standards and secondary standards for weights and measures for use in this State as the State Sealer of Consumer Equitability determines appropriate.
2. Maintain traceability of the state standards to the national standards of the National Institute of Standards and Technology.
3. Enforce the provisions of this chapter.
4. Adopt other reasonable regulations for the enforcement of this chapter.
5. Establish requirements for:
  - (a) Labeling;
  - (b) The presentation of information relating to cost per unit;
  - (c) Standards of weight, measure or count, and reasonable standards of fill, for any packaged commodity; and
  - (d) Information relating to open dating of packaged food.
6. Grant such exemptions from the provisions of this chapter or any regulations adopted pursuant thereto as the State Sealer of Consumer Equitability determines appropriate to the maintenance of good commercial practices within this State.
7. Conduct investigations to ensure compliance with this chapter.
8. Delegate to appropriate personnel any of the responsibilities of the Division as needed for the proper administration of the Division.
9. Adopt regulations establishing a schedule of civil penalties for any violation of NRS 581.415 ~~[-]~~ ***and for any point-of-sale system or cash register determined not to be in compliance with the provisions of subsection 19.***
10. Inspect and test commercial weights and measures that are kept, offered or exposed for sale.
11. Inspect and test, to ascertain if they are correct, weights and measures that are commercially used to:
  - (a) Determine the weight, measure or count of commodities or things that are sold, or offered or exposed for sale, on the basis of weight, measure or count; or
  - (b) Compute the basic charge or payment for services rendered on the basis of weight, measure or count.
12. Test all weights and measures used in checking the receipt or disbursement of supplies by entities funded by legislative appropriations.
13. Approve for use such commercial weights and measures as the State Sealer of Consumer Equitability determines are correct and appropriate. The State Sealer of Consumer Equitability may mark such commercial weights and measures. The State Sealer of Consumer Equitability shall reject and order to be corrected, replaced or removed any commercial weights and measures found to be incorrect. Weights and measures that have been rejected may be seized if they are not corrected within the time specified or if they are used or disposed of in a manner not specifically authorized. The State Sealer of

Consumer Equitability shall remove from service and may seize weights and measures found to be incorrect that are not capable of being made correct.

14. Weigh, measure or inspect packaged commodities that are kept, offered or exposed for sale, sold or in the process of delivery to determine whether the packaged commodities contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or the regulations adopted pursuant thereto. In carrying out the provisions of this subsection, the State Sealer of Consumer Equitability shall employ recognized sampling procedures, including, without limitation, sampling procedures adopted by the National Conference on Weights and Measures.

15. Adopt regulations prescribing the appropriate term or unit of weight or measure to be used whenever the State Sealer of Consumer Equitability determines that an existing practice of declaring the quantity of a commodity, or of setting charges for a service by weight, measure, numerical count or time, or any combination thereof, does not facilitate value comparisons by consumers or may confuse consumers.

16. Allow reasonable variations from the stated quantity of contents that entered intrastate commerce, which must include those variations caused by loss or gain of moisture during the course of good distribution practices or by unavoidable deviations in good manufacturing practices.

17. Provide for the training of persons employed by any governmental entity within this State, including, without limitation, state, county and municipal personnel, who enforce the provisions of this chapter and chapter 582 of NRS, and any regulations adopted pursuant thereto, relating to weights and measures. The State Sealer of Consumer Equitability may establish by regulation minimum training and performance requirements which must be met by all such persons.

18. Verify advertised prices ~~{ }~~ and price representations, ~~{ and point-of-sale systems, }~~ as necessary, to determine ~~{ the }~~ *their* accuracy .

**19. *Without charging and collecting a fee, conduct random tests of point-of-sale systems and cash registers to determine the accuracy of prices, including advertised prices and price representations, and computations and the correct use of the equipment, and, if such systems utilize scanning or coding means in lieu of manual entry, the accuracy of prices printed or recalled from a database. {In carrying out the provisions of this subsection, the State Sealer of Consumer Equitability shall:***

~~—(a)}~~ **20.** Employ recognized procedures for making ~~{ such }~~ verifications and determinations of accuracy, including, without limitation, any appropriate procedures designated by the National Institute of Standards and Technology . ~~{ }~~

~~—(b)}~~ **21.** Adopt regulations and issue orders regarding standards for the accuracy of advertised prices and automated systems for retail price charging, ~~{ or }~~ point-of-sale systems ~~{ }~~ **and cash registers**, and for the enforcement of those standards . ~~{ and }~~

~~—(e)]~~ 22. Conduct investigations to ensure compliance with ~~[those standards.]~~ *the regulations adopted pursuant to subsection 21.*

**Sec. 137.** (Deleted by amendment.)

**Sec. 138.** NRS 581.417 is hereby amended to read as follows:

581.417 1. A person subject to a civil penalty may request an administrative hearing within 10 days after receipt of the notice of the civil penalty. The State Sealer of Consumer Equitability or a designee shall conduct the hearing after giving appropriate notice to the respondent. The decision of the State Sealer of Consumer Equitability or the designee is subject to appropriate judicial review.

2. If the respondent has exhausted all administrative appeals and the civil penalty has been upheld, the respondent shall pay the civil penalty:

(a) If no petition for judicial review is filed pursuant to NRS 233B.130, within 40 days after the final decision of the State Sealer of Consumer Equitability ~~[ ]~~ *or designee*; or

(b) If a petition for judicial review is filed pursuant to NRS 233B.130 and the civil penalty is upheld, within 10 days after the effective date of the final decision of the court.

3. If the respondent fails to pay the penalty, a civil action may be brought by the State Sealer of Consumer Equitability in any court of competent jurisdiction to recover the civil penalty. ~~[All civil penalties collected pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.]~~

*4. Any money collected from the recovery of a civil penalty pursuant to subsection 3 must be accounted for separately and:*

*(a) Fifty percent of the money must be used to fund a program selected by the Director of the State Department of Agriculture that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and*

*(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 139.** Chapter 583 of NRS is hereby amended by adding thereto the provisions set forth as sections 140 and 141 of this act.

**Sec. 140.** *As used in this chapter, unless the context otherwise requires, “Department” means the State Department of Agriculture.*

**Sec. 141.** 1. *Any person violating any provision of this chapter or any regulation adopted pursuant thereto is subject to a civil penalty. In addition to any other penalties set forth in this chapter, the Director of the Department may assess a civil penalty not to exceed:*

*(a) For the first violation, \$250.*

*(b) For a second violation, \$500.*

*(c) For each subsequent violation, \$1,000.*

2. *Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:*

(a) *Fifty percent of the money must be used to fund a program selected by the Director of the Department that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and*

(b) *The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 142.** NRS 583.010 is hereby amended to read as follows:

583.010 1. No person shall bring, expose or offer for sale, or sell ~~[in any city or town]~~ within this state, for human food, any ~~[-~~

~~-(a) Blown, meager,] unsound, diseased or [bad] unwholesome fish, meat or game . [-or~~

~~-(b) Unsound, diseased or unwholesome fish.]~~

2. No person shall bring, expose or offer for sale, or sell ~~[in any city or town]~~ within this state, the flesh of any animal which, when killed, was sick or diseased, or that died a natural or accidental death.

3. No person shall slaughter, expose for sale or sell, or bring or cause to be brought into ~~[any city or town within]~~ this state, for human food, any calf unless it is in good, healthy condition . ~~[and 4 weeks of age.]~~

4. Any article or animal that shall be offered or exhibited for sale, in any part of this state, in any market or elsewhere, as though it were intended for sale, shall be deemed offered and exposed for sale, within the intent and meaning of this section.

5. Any person who, in violation of the provisions of this section, shall bring, slaughter, expose or offer for sale, or sell ~~[in any city or town]~~ within this state any article or animal which is unfit or unsafe for human food shall forfeit the same to the authorities.

6. Any sheriff, constable, police officer or other peace officer or the ~~[Chief Medical]~~ **State Quarantine** Officer shall forthwith remove any of the animals or articles named in this section, when aware of the existence thereof, at the expense of the owner thereof, in a manner that will ensure safety and protection to the public.

7. Any person violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 143.** (Deleted by amendment.)

**Sec. 144.** NRS 583.030 is hereby amended to read as follows:

583.030 1. It shall be unlawful for any person, firm or corporation to possess, with intent to sell:

(a) The carcass or part of any carcass of any animal which has died from any cause other than being slaughtered in a sanitary manner; **or**

(b) The carcass or part of any carcass of any animal that shows evidence of any disease, or that came from a sick or diseased animal . ~~[-or~~

~~-(c) The carcass or part of the carcass of any calf that was killed before it had attained the age of 4 weeks.]~~

2. Any person, firm or corporation violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ ***is subject to a civil penalty pursuant to section 141 of this act.***

**Sec. 145.** NRS 583.040 is hereby amended to read as follows:

583.040 1. It shall be unlawful for any person, firm or corporation to sell within this State, or to possess with the intent to sell within this State, for human food, the carcass or parts of the carcass of any animal which has been slaughtered, or is prepared, handled or kept under insanitary conditions, or any primal cut of meat which is not stamped with an approved stamp authorized by the ~~[Division of Public and Behavioral Health of the Department of Health and Human Services.]~~ ***Department.***

2. Insanitary conditions shall be deemed to exist in any slaughterhouse that does not comply with the provisions of chapter 446 of NRS.

3. Any person, firm or corporation violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ ***is subject to a civil penalty pursuant to section 141 of this act.***

**Sec. 146.** NRS 583.045 is hereby amended to read as follows:

583.045 1. No person or corporation may sell or offer for sale to the consumer through a meat market, store or otherwise any meats, either fresh or frozen, which are products of any country foreign to the United States, without first indicating such fact by labels or brands on each quarter, half or whole carcass of such meat, and on each counter display containing any of the above-described products, naming the country of its origin.

2. Any person violating any of the provisions of this section is ~~[guilty of a misdemeanor.]~~ ***subject to a civil penalty pursuant to section 141 of this act.***

**Sec. 147.** NRS 583.050 is hereby amended to read as follows:

583.050 1. It shall be unlawful for any person to sell the meat of any equine animal without informing the purchaser thereof, at the time of such sale, that the meat is the meat of an equine animal.

2. It shall be unlawful for any person peddling the meat of any equine animal, who is not the keeper of any shop or meat market, to sell such meat without possessing then and there the hide of such animal containing the brand and other marks thereon, and upon request not to exhibit the hide of such animal containing the brand and other marks thereon.

3. Any person violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ ***is subject to a civil penalty pursuant to section 141 of this act.***

**Sec. 148.** NRS 583.055 is hereby amended to read as follows:

583.055 1. The ~~[State]~~ Department ~~[of Agriculture shall]~~ ***may*** establish a program for grading and certifying meats, prepared meats and meat products in conformity with federal practice.

2. The Department may enter into cooperative agreements with the Agricultural Marketing Service of the United States Department of Agriculture and the College of Agriculture, ***Biotechnology and Natural Resources*** of the

University of Nevada, Reno, and adopt appropriate regulations to carry out the program.

3. The Department may establish fees, to be collected from slaughtering or other processing operations, for the purpose of grading and certifying meats, prepared meats and meat products.

**Sec. 149.** NRS 583.060 is hereby amended to read as follows:

583.060 1. No person shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state for human food any unsound, diseased or unwholesome fruit, vegetables or other market produce.

2. Any article that shall be offered or exhibited for sale, in any part of this state, in any market or elsewhere, as though it were intended for sale, shall be deemed offered and exposed for sale, within the intent and meaning of this section.

3. Any person who, in violation of the provisions of this section, shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state any article which is unfit or unsafe for human food shall forfeit the same to the authorities.

4. Any sheriff, constable, police officer or other peace officer or the ~~Chief Medical~~ **State Quarantine** Officer shall forthwith remove any of the articles named in this section, when aware of the existence thereof, at the expense of the owner thereof, in a manner that will ensure safety and protection to the public.

5. Any person violating any of the provisions of this section ~~shall be guilty of a misdemeanor.~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 150.** NRS 583.070 is hereby amended to read as follows:

583.070 1. No person shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state for human food any ~~blown, meager,~~ **unsound**, diseased or ~~bad~~ **unwholesome** poultry.

2. Any article that shall be offered or exhibited for sale, in any part of this state, in any market or elsewhere, as though it were intended for sale, shall be deemed offered and exposed for sale, within the intent and meaning of this section.

3. Any person who, in violation of the provisions of this section, shall bring, expose or offer for sale, or sell ~~in any city or town~~ within this state any article which is unfit or unsafe for human food shall forfeit the same to the authorities.

4. Any sheriff, constable, police officer or other peace officer or the ~~Chief Medical~~ **State Quarantine** Officer shall forthwith remove any of the articles named in this section, when aware of the existence thereof, at the expense of the owner thereof, in a manner that will ensure safety and protection to the public.

5. Any person violating any of the provisions of this section ~~shall be guilty of a misdemeanor.~~ **is subject to a civil penalty pursuant to section 141 of this act.**



**Sec. 151.** NRS 583.080 is hereby amended to read as follows:

583.080 1. It shall be unlawful for any person, firm or corporation to possess, with intent to sell:

- (a) The carcass or part of any carcass of any fowl which has died from any cause other than being slaughtered in a sanitary manner;
- (b) The carcass or part of any carcass of any fowl that shows evidence of any disease, or that came from a sick or diseased fowl; or
- (c) The carcass or part of any carcass of any fowl not processed in an establishment approved by the ~~[Division of Public and Behavioral Health of the Department of Health and Human Services]~~ **Department** or in accordance with poultry regulations adopted by the ~~[Division.]~~ **Department**.

2. Any person, firm or corporation violating any of the provisions of this section ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 152.** NRS 583.210 is hereby amended to read as follows:

583.210 Any person who violates any of the provisions of NRS 583.110 to 583.200, inclusive, ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 153.** NRS 583.255 is hereby amended to read as follows:

583.255 As used in NRS 583.255 to 583.555, inclusive, unless the context otherwise requires, the words and terms defined in NRS 583.265 to 583.429, inclusive, have the meanings ascribed to them in ~~[NRS 583.265 to 583.429, inclusive.]~~ **those sections.**

**Sec. 154.** NRS 583.295 is hereby amended to read as follows:

583.295 “Inspector” means:

- 1. A person who has entered into a contract pursuant to NRS 583.448; or
- 2. An employee or official of the ~~[Division of Public and Behavioral Health of the Department of Health and Human Services]~~ **Department** authorized by the Officer to inspect livestock, poultry, game mammals or birds or carcasses or parts thereof.

**Sec. 155.** NRS 583.365 is hereby amended to read as follows:

583.365 “Officer” means the ~~[Chief Medical]~~ **State Quarantine** Officer.

**Sec. 156.** NRS 583.375 is hereby amended to read as follows:

583.375 “Official establishment” means any establishment in this state, other than an establishment covered by subsection 1 of NRS 583.545, which on a commercial basis slaughters ~~[or processes]~~ for hire any meat animal, game mammal, poultry or game bird for human consumption, and which has been inspected and approved by the Officer.

**Sec. 157.** NRS 583.435 is hereby amended to read as follows:

583.435 1. Meat, meat food products, and poultry products are an important source of the supply of human food in this State and legislation to assure that such food supplies are unadulterated and otherwise fit for human consumption, and properly labeled, is in the public interest. Therefore, it is hereby declared to be the policy of this State to provide for the inspection of slaughtered livestock, poultry and other animals, and the carcasses and parts

thereof which are used for human food, at certain establishments to prevent the distribution in intrastate commerce, for human consumption, of animal carcasses and parts thereof which are adulterated or otherwise unfit for human food.

2. The ~~[Division of Public and Behavioral Health of the Department of Health and Human Services]~~ **Department** is hereby designated as the single state agency primarily responsible for the administration of the program established by NRS 583.255 to 583.555, inclusive.

**Sec. 158.** NRS 583.445 is hereby amended to read as follows:

583.445 1. The Officer, an inspector or a person acting as an inspector shall make an ante mortem inspection of livestock, poultry and game mammals and birds in any official establishment where livestock, poultry or game mammals or birds are slaughtered for commercial purposes.

2. Whenever slaughtering ~~for other processing]~~ operations are being conducted, the Officer, an inspector or a person acting as an inspector shall make postmortem inspection of the carcasses and parts thereof of each animal and bird slaughtered in an official establishment.

3. The Officer, inspector or person acting as an inspector shall quarantine, segregate and reinspect livestock, poultry, game mammals and birds, and carcasses and parts thereof in official establishments as he or she deems necessary to effectuate the purposes of NRS 583.255 to 583.555, inclusive.

4. Except as otherwise provided in this section, all carcasses of livestock, poultry, other animals and parts thereof found by the Officer, an inspector or person acting as an inspector to be adulterated in any official establishment must be condemned by the Officer or an inspector. If no appeal is taken from the determination of condemnation, the carcasses must be destroyed for human food purposes under the supervision of an inspector unless the carcasses can, by ~~reprocessing]~~ **processing**, be made unadulterated. In such a case they need not be so condemned and destroyed if ~~reprocessed]~~ **processed** under the supervision of an inspector and thereafter found to be unadulterated. If any appeal is taken from the determination of condemnation, the carcasses must be appropriately marked and segregated pending completion of an additional inspection. The appeal is at the cost of the appellant if the Officer, after a hearing, determines that the appeal is frivolous. If the determination of condemnation is sustained, the carcasses must be destroyed for human food purposes under the supervision of an inspector.

**Sec. 159.** NRS 583.453 is hereby amended to read as follows:

583.453 1. A person shall not operate an official establishment unless the person receives a permit issued by the Officer.

2. A person must apply for a permit ~~for a form provided by the Division of Public and Behavioral Health of the Department of Health and Human Services.]~~ **in the manner prescribed by the Department.** The application must include:

(a) The applicant's full name and address;

(b) A statement whether the applicant is a natural person, firm or corporation, and if a partnership, the names and addresses of the partners;

(c) A statement of the location and type of proposed establishment; and

(d) The signature of the applicant.

3. Upon receipt of an application, an inspector shall make an inspection of the establishment. If the inspection indicates that the requirements of this chapter have been met, the Officer shall issue a permit to the applicant.

4. A permit issued pursuant to this section is not transferable and must be posted in the establishment.

**Sec. 160.** NRS 583.455 is hereby amended to read as follows:

583.455 1. Each official establishment at which livestock, poultry or game mammals or birds are slaughtered ~~for carcasses or parts thereof are processed~~ for intrastate commerce must be operated in accordance with sanitary practices required by rules or regulations prescribed by the Officer. Carcasses or parts of livestock, poultry or game mammals or birds must not be admitted into any official establishment unless they have been prepared in accordance with procedures approved pursuant to NRS 583.255 to 583.555, inclusive, the Wholesome Poultry Products Act or the Wholesome Meat Act, or unless their admission is permitted by rules or regulations prescribed by the ~~[State Board of Health.] Department.~~

2. The Officer may issue a permit for an establishment to operate as an official establishment but shall not approve any establishment whose premises, facilities or equipment, or the operation thereof, fail to meet the requirements of this section.

3. A local government shall not issue a business license for operation of any establishment unless it has been issued a permit as an official establishment.

**Sec. 161.** NRS 583.472 is hereby amended to read as follows:

583.472 1. It is unlawful for the owner, proprietor or manager of a retail meat market, personally or through another, to advertise any prepackaged meat or meat food product with a United States Department of Agriculture grade unless such meat or meat food product is actually available to the public and bears the grade awarded to it by the United States Department of Agriculture.

2. It is unlawful for the owner, proprietor or manager of a retail meat market, personally or through another, to advertise carcass, quarter or primal cuts of meat with a USDA grade unless the USDA yield grade is included in the advertisement.

3. Any person who violates any provision of this section shall be punished by a fine of not ~~more~~ less than \$500 ~~[.]~~ or more than \$2,000.

**Sec. 162.** NRS 583.475 is hereby amended to read as follows:

583.475 It is unlawful for any person:

1. To process, sell or offer for sale, transport or deliver or receive for transportation, in intrastate commerce, any livestock or poultry carcass or part thereof unless such article has been inspected and unless the article and its shipping container and immediate container, if any, are marked in accordance

with the requirements of NRS 583.255 to 583.555, inclusive, or the Wholesome Meat Act or the Wholesome Poultry Products Act.

2. To sell or otherwise dispose of, for human food, any livestock or poultry carcass or part thereof which has been inspected and declared to be adulterated in accordance with NRS 583.255 to 583.555, inclusive, or which is misbranded.

3. Falsely to make or issue, alter, forge, simulate or counterfeit or use without proper authority any official inspection certificate, memorandum, mark or other identification, or device for making such mark or identification, used in connection with inspection in accordance with NRS 583.255 to 583.555, inclusive, or cause, procure, aid, assist in, or be a party to such false making, issuing, altering, forging, simulating, counterfeiting or unauthorized use, or knowingly to possess, without promptly notifying the Officer or the Officer's representative, utter, publish or use as true, or cause to be uttered, published or used as true, any such falsely made or issued, altered, forged, simulated or counterfeited official inspection certificate, memorandum, mark or other identification, or device for making such mark or identification, or to represent that any article has been officially inspected in accordance with NRS 583.255 to 583.555, inclusive, when such article has in fact not been so inspected, or knowingly to make any false representations in any certificate prescribed by the Officer or any form resembling any such certificate.

4. To misbrand or do an act intending to misbrand any livestock or poultry carcass or part thereof, in intrastate commerce.

5. To use any container bearing an official inspection mark unless the article contained therein is in the original form in which it was inspected and covered by such mark unless the mark is removed, obliterated or otherwise destroyed.

6. To refuse at any reasonable time to permit access:

(a) By ~~[a health officer or the health officer's]~~ ***the Officer or his or her*** agents to the premises of an establishment in this state where carcasses of livestock or poultry, or parts thereof, are processed for intrastate commerce.

(b) By the Secretary of Agriculture or the Secretary's representative to the premises of any establishment specified in paragraph (a), for inspection and the taking of reasonable samples.

7. To refuse to permit access to and the copying of any record as authorized by NRS 583.485.

8. To use for personal advantage, or reveal, other than to the authorized representatives of any state agency in their official capacity, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of NRS 583.255 to 583.555, inclusive, concerning any matter which as a trade secret is entitled to protection.

9. To deliver, receive, transport, sell or offer for sale or transportation in intrastate commerce, for human consumption, any uneviscerated slaughtered poultry, or any livestock or poultry carcass or part thereof which has been processed in violation of any requirements under NRS 583.255 to 583.555,

inclusive, except as may be authorized by and pursuant to rules and regulations prescribed by the Officer.

10. ~~10. [To deliver, receive, transport, sell or offer for sale or transportation in intrastate commerce any adulterated or misbranded livestock or poultry carcass or part thereof which is exempted under NRS 583.515.~~

~~11.]~~ To apply to any livestock or poultry carcass or part thereof, or any container thereof, any official inspection mark or label required by NRS 583.255 to 583.555, inclusive, except by, or under the supervision of, an inspector.

**Sec. 163.** NRS 583.476 is hereby amended to read as follows:

583.476 1. If a carcass of livestock or of a game mammal or bird is delivered for processing to a person who is engaged in the business of processing such carcasses, the person shall not, if he or she returns the carcass after processing it to the person who delivered it, return to that person a processed carcass other than the carcass which was delivered for processing.

2. For the purposes of carrying out the provisions of subsection 1, a person who is engaged in the business of processing carcasses of livestock or game mammals or birds shall mark any such carcass that is to be returned to the person who delivered it for processing in a manner which provides for the identification of that person.

3. A person who violates any provision of this section is guilty of a misdemeanor ~~[.]~~ **and subject to a civil penalty pursuant to section 141 of this act.**

**Sec. 164.** NRS 583.495 is hereby amended to read as follows:

583.495 1. A person who ~~[.]~~  
~~(a) Violates] violates~~ any of the provisions of NRS 583.475 and 583.485 ~~[is guilty of a misdemeanor.]~~ :

**(a) For a first violation, is subject to a civil penalty pursuant to section 141 of this act.**

~~(b) [Is once convicted of violating the provisions of NRS 583.475 and 583.485 and again violates any of those provisions]~~ **For a second violation, is guilty of a gross misdemeanor [.] and subject to a civil penalty pursuant to section 141 of this act.**

~~(c) [Is twice convicted of violating the provisions of NRS 583.475 and 583.485 and again violates any of those provisions]~~ **For a third or subsequent violation, is guilty of a category D felony and shall be punished as provided in NRS 193.130 [.] and subject to a civil penalty pursuant to section 141 of this act.**

2. When construing or enforcing the provisions of NRS 583.255 to 583.555, inclusive, the act, omission or failure of a person acting for or employed by an individual, partnership, corporation, association or other business unit, within the scope of the person's employment or office, shall in every case be deemed the act, omission or failure of the individual, partnership, corporation, association or other business unit, as well as of the person.

3. A carrier is not subject to the penalties imposed by this section by reason of the carrier's receipt, carriage, holding or delivery, in the usual course of business as a carrier, of livestock or poultry carcasses or parts thereof owned by another person, unless the carrier:

(a) Has knowledge, or is in possession of facts which would cause a reasonable person to believe, that the articles do not comply with the provisions of NRS 583.255 to 583.555, inclusive.

(b) Refuses to furnish, on request of a representative of the Officer, the name and address of the person from whom the carrier received the livestock or poultry carcasses, or parts thereof, and copies of all documents pertaining to the delivery of such carcasses, or parts thereof, to the carrier.

4. A person, firm or corporation is not subject to the penalties imposed by this section for receiving for transportation any shipment in violation of NRS 583.255 to 583.555, inclusive, if the receipt was made in good faith, unless the person, firm or corporation refuses to furnish on request of a representative of the Officer:

(a) The name and address of the person from whom such shipment was received; and

(b) Copies of all documents pertaining to the delivery of the shipment to the person, firm or corporation.

**Sec. 165.** NRS 583.545 is hereby amended to read as follows:

583.545 1. NRS 583.255 to 583.555, inclusive, do not apply to any act or transaction subject to regulation under the Wholesome Poultry Products Act and the Wholesome Meat Act.

2. The Department ~~[of Health and Human Services]~~ may enter into agreements with the Federal Government in carrying out the provisions of NRS 583.255 to 583.555, inclusive, the Wholesome Poultry Products Act and the Wholesome Meat Act, and may accept financial aid from the Federal Government for such purpose.

**Sec. 166.** NRS 583.555 is hereby amended to read as follows:

583.555 1. The cost of inspection of an official establishment must be paid by the owner or operator of the establishment.

2. The Officer may establish a mandatory schedule of killing days for an official establishment in any area of the State if the schedule conforms with the reasonable needs of the establishment and has received the approval of the ~~[Division of Public and Behavioral Health of the]~~ Department . ~~[of Health and Human Services.]~~ If such a schedule is established, it must be exclusively used for the inspection of the slaughtering operations of the official establishment.

**Sec. 167.** (Deleted by amendment.)

**Sec. 168.** (Deleted by amendment.)

**Sec. 169.** (Deleted by amendment.)

**Sec. 170.** (Deleted by amendment.)

**Sec. 171.** (Deleted by amendment.)

**Sec. 172.** (Deleted by amendment.)

**Sec. 173.** (Deleted by amendment.)

**Sec. 174.** (Deleted by amendment.)

**Sec. 175.** NRS 586.010 is hereby amended to read as follows:

586.010 ~~[NRS 586.010 to 586.450, inclusive,]~~ ***This chapter*** may be cited as the Nevada Pesticides Act.

**Sec. 176.** NRS 586.020 is hereby amended to read as follows:

586.020 As used in ~~[NRS 586.010 to 586.450, inclusive,]~~ ***this chapter***, unless the context otherwise requires, the words and terms defined in NRS 586.030 to 586.220, inclusive, have the meanings ascribed to them in those sections.

**Sec. 177.** NRS 586.180 is hereby amended to read as follows:

586.180 “Misbranded” shall apply:

1. To any pesticide or device if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

2. To any pesticide:

(a) If it is an imitation of, or is offered for sale under the name of, another pesticide;

(b) If its labeling bears any reference to registration under ~~[NRS 586.010 to 586.450, inclusive,]~~ ***this chapter***;

(c) If the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;

(d) If the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living human beings and other vertebrate animals;

(e) If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase;

(f) If any word, statement or other information required by or under the authority of ~~[NRS 586.010 to 586.450, inclusive,]~~ ***this chapter*** to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) If in the case of a pesticide, when used as directed, or in accordance with commonly recognized practice, it shall be injurious to living human beings or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such pesticide; or

(h) If in the case of a plant regulator, defoliant or desiccant, when used as directed, it shall be injurious to human beings or other vertebrate animals, or vegetation to which it is applied; but physical or physiological effects on plants or parts thereof shall not be deemed to be injury when this is the purpose for

which the plant regulator, defoliant or desiccant was applied, in accordance with the label claims and recommendations.

**Sec. 178.** NRS 586.200 is hereby amended to read as follows:

586.200 “Registrant” means the person registering any brand of pesticide pursuant to the provisions of ~~[NRS 586.010 to 586.450, inclusive.]~~ ***this chapter.***

**Sec. 179.** NRS 586.220 is hereby amended to read as follows:

586.220 “Weed” means any plant which ~~[grows where not wanted.]~~ ***is or is likely to be a public nuisance, detrimental or destructive, or difficult to control.***

**Sec. 180.** NRS 586.230 is hereby amended to read as follows:

586.230 Jurisdiction in all matters pertaining to the distribution, sale and transportation of pesticides and devices is, pursuant to ~~[NRS 586.010 to 586.450, inclusive.]~~ ***this chapter,*** vested exclusively in the Director.

**Sec. 181.** NRS 586.270 is hereby amended to read as follows:

586.270 1. A registrant shall pay an annual registration fee in an amount established by regulation of the Director for each brand of pesticide registered.

2. ***All registrations expire on December 31 and are renewable annually.***

3. The Director shall, for each annual registration fee collected, deposit in a separate account the amount established for that purpose by regulation of the Director. The money deposited in the account must be used:

- (a) For the disposal of pesticides;
- (b) To monitor pesticides;
- (c) To protect groundwater and surface water from contamination by pesticides; and
- (d) For the ~~[eradication and]~~ control of noxious weeds.

~~[3.]~~ 4. A registrant who offers a pesticide for sale before registering the brand of pesticide shall pay an amount equal to twice the registration fee for registering the brand of pesticide.

~~[4.]~~ 5. As used in this section, “noxious weed” has the meaning ascribed to it in NRS 555.005.

**Sec. 182.** NRS 586.280 is hereby amended to read as follows:

586.280 1. If the Director deems it necessary in the administration of ~~[NRS 586.010 to 586.450, inclusive.]~~ ***this chapter,*** the Director may require the submission of the complete formula of any pesticide.

2. If it appears to the Director that the composition of the article is such as to warrant the proposed claims for it, and if the article and its labeling and other material required to be submitted comply with the requirements of NRS 586.350 to 586.410, inclusive, the Director shall register the article.

**Sec. 183.** NRS 586.290 is hereby amended to read as follows:

586.290 1. If it does not appear to the Director that the article is such as to warrant the proposed claims for it, or if the article and its labeling and other material required to be submitted do not comply with the provisions of ~~[NRS 586.010 to 586.450, inclusive.]~~ ***this chapter,*** the Director shall notify the registrant of the manner in which the article, labeling or other material



required to be submitted fails to comply with ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** to allow the registrant an opportunity to make the necessary corrections.

2. The registration of an article is not a defense for the commission of any offense prohibited under NRS 586.350 to 586.410, inclusive.

**Sec. 184.** NRS 586.300 is hereby amended to read as follows:

586.300 Notwithstanding any other provision of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter**, registration is not required in the case of a pesticide shipped from one plant within this state to another plant within this state operated by the same person.

**Sec. 185.** NRS 586.330 is hereby amended to read as follows:

586.330 To avoid confusion endangering the public health resulting from diverse requirements, particularly as to the labeling and coloring of pesticides, and to avoid increased costs to the residents of this state because of the necessity of complying with diverse requirements in the manufacture and sale of pesticides, it is desirable that there be uniformity between the requirements of the several states and the Federal Government relating to pesticides. To this end the Director may, after a public hearing, adopt such regulations applicable to and in conformity with the primary standards established by ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** as have been or may be prescribed by the United States Environmental Protection Agency with respect to pesticides.

**Sec. 186.** NRS 586.370 is hereby amended to read as follows:

586.370 It shall be unlawful for any person to distribute, sell or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any pesticide which contains any substance or substances in quantities highly toxic to humans, determined as provided in NRS 586.310, unless the label shall bear, in addition to any other matter required by ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter**:

1. The skull and crossbones.
2. The word “poison” prominently, in red, on a background of distinctly contrasting color.
3. A statement of an antidote for the pesticide.

**Sec. 187.** NRS 586.380 is hereby amended to read as follows:

586.380 1. It is unlawful for any person to distribute, sell or offer for sale within this State, or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State, the pesticides commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluorosilicate, and barium fluorosilicate, and those containing mercurial compounds, unless they have been distinctly colored or discolored as provided by the regulations adopted in accordance with the provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter**, or any other white powder pesticide which the Director, after investigation of and after public hearing on the necessity for such action for the protection of the public

health and the feasibility of the coloration or discoloration, by regulation requires to be distinctly colored or discolored, unless it has been so colored or discolored.

2. The Director may exempt any pesticide to the extent that it is intended for a particular use from the coloring or discoloring required or authorized by this section if the Director determines that the coloring or discoloring for that use is not necessary to protect the public health.

**Sec. 188.** NRS 586.400 is hereby amended to read as follows:

586.400 It shall be unlawful for any person to detach, alter, deface or destroy, in whole or in part, any label or labeling provided for in ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** or regulations promulgated thereunder, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter.**

**Sec. 189.** NRS 586.403 is hereby amended to read as follows:

586.403 1. The regulations governing the use of restricted-use pesticides may:

(a) Provide the time when and the conditions under which they may be used in this State.

(b) Prohibit their use in areas of this State.

(c) Provide that they shall be used only under a permit for each application; and the permit may set forth the time, conditions, quantity and concentration of its use.

2. Every permit which is issued under the regulations adopted pursuant to this section is conditioned upon compliance with such regulations and upon such other specified conditions as may be deemed necessary to avoid injury.

3. Any permit may be refused, revoked or suspended for violation of any of the conditions of such permit, or for violation of any provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ **this chapter** or the regulations adopted pursuant ~~[to such sections,]~~ **thereto.**

**Sec. 190.** NRS 586.420 is hereby amended to read as follows:

586.420 1. The penalties provided for violations of NRS 586.350 to 586.390, inclusive, do not apply to:

(a) Any carrier while lawfully engaged in transporting a pesticide within this state, if the carrier, upon request, permits the Director or the Director's designated agent to copy all records showing the transactions in and movement of the articles.

(b) Public officers of this state and the Federal Government engaged in the performance of their duties.

(c) The manufacturer or shipper of a pesticide for experimental use only:

(1) By or under the supervision of an agency of this state or of the Federal Government authorized by law to conduct research in the field of pesticides; or

(2) By other persons if the pesticide is not sold and if the container thereof is plainly and conspicuously marked "For experimental use only—Not to be

sold,” together with the manufacturer’s name and address, but if a written permit has been obtained from the Director, pesticides may be sold for experimental purposes subject to such restrictions and conditions as may be set forth in the permit.

2. An article shall not be deemed in violation of the provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ *this chapter* if intended solely for export to a foreign country and if prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ *this chapter* apply.

**Sec. 191.** NRS 586.430 is hereby amended to read as follows:

586.430 ~~[1.]~~ The examination of pesticides or devices must be made under the direction of the Director to determine whether they comply with the requirements of ~~[NRS 586.010 to 586.450, inclusive,]~~ *this chapter*. If it appears from the examination that a pesticide or device fails to comply with the provisions of ~~[NRS 586.010 to 586.450, inclusive, and the Director contemplates instituting criminal proceedings against any person,]~~ *this chapter*, the Director shall cause appropriate notice to be given to the person. Any person so notified must be given an opportunity to present the person’s views, orally or in writing, ~~[with regard to those contemplated proceedings,]~~ and if thereafter in the opinion of the Director it appears that the provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ *this chapter* have been violated by the person, the Director ~~[shall refer the facts to the district attorney of the county in which the violation occurred with a copy of the results of the analysis or the examination of the article.]~~ *may impose a civil penalty pursuant to NRS 586.450.* The provisions of ~~[NRS 586.010 to 586.450, inclusive,]~~ *this chapter* do not require the Director to ~~[report]~~ *commence formal proceedings* for any act or failure to act ~~[for prosecution or for the institution of libel proceedings, or to report minor violations of NRS 586.010 to 586.450, inclusive,]~~ if the Director believes that the public interest will be best served by a suitable notice of warning in writing.

~~[2. Each district attorney to whom any such violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of proper jurisdiction without delay.~~

~~[3. The Director shall, by publication in such manner as the Director may prescribe, give notice of all judgments entered in actions instituted under the authority of NRS 586.010 to 586.450, inclusive.]~~

**Sec. 192.** NRS 586.440 is hereby amended to read as follows:

586.440 1. Any pesticide or device that is distributed, sold or offered for sale within the State of Nevada, or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state is liable to be proceeded against in any district court in any county of this state where it may be found and seized for confiscation by process of libel for condemnation:

(a) In the case of a pesticide:

(1) If it is adulterated or misbranded.

(2) If the brand of the pesticide has not been registered under the provisions of NRS 586.250 to 586.300, inclusive.

(3) If it is a white powder pesticide and is not colored as required under ~~[NRS 586.010 to 586.450, inclusive.]~~ **this chapter.**

(4) If it fails to bear on the label the information required by ~~[NRS 586.010 to 586.450, inclusive.]~~ **this chapter.**

(b) In the case of a device, if it is misbranded.

2. If the article is condemned, it must, after the entry of the decree, be disposed of by destruction or sale as the court may direct, and the proceeds must be paid to the State Treasurer and deposited in the State General Fund. The article seized must not be sold or destroyed contrary to the provisions of ~~[NRS 586.010 to 586.450, inclusive.]~~ **this chapter.** The article must not be sold or destroyed if the owner thereof pays the costs of condemnation and executes a good and sufficient bond conditioned that the article must not be disposed of unlawfully. The court shall then order that the article condemned must be delivered to the owner thereof for relabeling or reprocessing as the case may be.

3. When a decree of condemnation is entered against the article, court costs, fees and storage charges, and other proper expenses, must be awarded against the person, if any, intervening as claimant of the article.

**Sec. 193.** NRS 586.450 is hereby amended to read as follows:

586.450 1. Any person violating ~~[NRS 586.350 shall be guilty of a misdemeanor.]~~ **any provision of this chapter is subject to a civil penalty not to exceed:**

(a) *For the first violation, \$250.*

(b) *For a second violation, \$500.*

(c) *For each subsequent violation, \$1,000.*

2. *Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:*

(a) *Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and*

(b) *The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

3. Notwithstanding any other provision of this section, if any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of NRS 586.280, the person shall be guilty of a gross misdemeanor.

**Sec. 194.** Chapter 588 of NRS is hereby amended by adding thereto a new section to read as follows:

*Pursuant to NRS 233B.040, the Director may adopt by reference the fertilizer control rules and standards of the Association of American Plant Food Control Officials or its successor organization.*

**Sec. 195.** NRS 588.170 is hereby amended to read as follows:

588.170 1. Each brand and grade of commercial fertilizer or agricultural mineral must be registered with the Department before being offered for sale, sold or distributed in this state.

2. An application for registration must be submitted to the Director on a form furnished by the Director, and, except as otherwise provided in subsection 3, must be accompanied by a ***nonrefundable*** registration fee in an amount to be fixed annually by the Director for each combined registration of brand and grade.

3. A person who offers a commercial fertilizer or agricultural mineral for sale before registering the brand and grade of the commercial fertilizer or agricultural mineral shall pay an amount equal to twice the otherwise applicable registration fee for registering the brand and grade of the commercial fertilizer or agricultural mineral.

4. ~~Upon approval by the Director, a copy of the registration must be furnished to the applicant.~~ ***The Director may deny the renewal of a registration if all the required tonnage reports have not been submitted and all fees and penalties have not been paid.***

5. All registrations expire on ~~June 30~~ ***December 31*** of each year.

**Sec. 196.** NRS 588.210 is hereby amended to read as follows:

588.210 1. There must be paid to the Department for all commercial fertilizers offered for sale, sold or distributed in this state a fee established by regulation of the State Board of Agriculture for each ton sold, but sales to manufacturers or exchanges between them are exempt.

2. There must be paid to the Department for all agricultural minerals offered for sale, sold or distributed in this state a fee established by regulation of the State Board of Agriculture. The regulations must specify the amount of the fee for each ton of agricultural minerals that is sold in packages and the amount of the fee for each ton of those minerals that is sold in bulk, but sales to manufacturers or exchanges between them are exempt.

3. The Department shall prepare suitable forms for reporting sales and, on request, shall furnish the forms without cost to all persons dealing in registered brands of commercial fertilizers or agricultural minerals. ***The form must be filed regardless of whether the person sold any commercial fertilizers or agricultural minerals during the reporting period.***

4. ***The registrant of each brand must report the total tonnage sold and pay the appropriate fees unless the responsibility for reporting and payment of fees has been assigned to another person by a contract entered into pursuant to subsection 5.***

5. ***A contract specified in subsection 4 must:***

- (a) Include the registration number of the brand;***
- (b) Identify each party by name, address, telephone number and title, if applicable;***
- (c) Identify the specific product covered by the contract;***
- (d) Include an effective date and expiration date, not beginning or ending during a reporting period and not exceeding 3 years in duration; and***

(e) *Be signed by each party or his or her authorized agent.*

6. *A person who violates any provision of this section is subject to a civil penalty pursuant to NRS 588.350.*

**Sec. 197.** NRS 588.270 is hereby amended to read as follows:

588.270 1. ~~{At least annually, the}~~ *The* Director ~~{shall}~~ *may* publish, in such form as the Director may deem proper:

(a) Information concerning the sales of commercial fertilizers and agricultural minerals, together with such data on their production and use as the Director may consider advisable.

(b) A report of the results of the analyses based on official samples of commercial fertilizers or agricultural minerals sold within the State as compared with the analyses guaranteed under NRS 588.170 to 588.200, inclusive.

2. The information concerning production and use of commercial fertilizers or agricultural minerals must be shown separately for the periods from July 1 to December 31 and from January 1 to June 30 of each year.

~~{3. No disclosure may be made of the operations of any person.}~~

**Sec. 198.** NRS 588.290 is hereby amended to read as follows:

588.290 If any commercial fertilizer or agricultural mineral in the possession of the consumer is found by the Director to be short in weight, the registrant of the commercial fertilizer or agricultural mineral ~~{shall, within 30 days after notice from the Director, pay to the consumer a penalty equal to 4 times the value of the actual shortage.}~~ *is subject to a civil penalty pursuant to NRS 588.350.*

**Sec. 199.** NRS 588.295 is hereby amended to read as follows:

588.295 1. It is unlawful for any person to sell or offer to sell at retail, or to distribute or deliver for transportation for delivery to the consumer or user, a restricted-use commercial fertilizer or agricultural mineral unless the person is registered with the Director.

2. Each person applying for registration must provide the Director with a registration statement that includes:

(a) The name and address of the person registering; and

(b) The name and address of any person who, on behalf of the person registering, sells, offers to sell, distributes or delivers for transportation a restricted-use commercial fertilizer or agricultural mineral.

3. All such registrations expire on ~~{December}~~ *January* 31 of ~~{each}~~ *the* year *immediately after the year in which the person registers pursuant to this section* and are renewable annually.

4. *Each application for renewal must be accompanied by the fourth quarter tonnage report for the immediately preceding year.*

5. Each person registering with the Director must pay:

(a) An annual registration fee established by regulation of the State Board of Agriculture; and

(b) A penalty fee established by regulation of the State Board of Agriculture if the person failed to renew the person's previous registration on or before

~~February~~ **March** 1 next following its expiration, unless the registration is accompanied by a signed statement that no person named on the registration statement has sold or distributed any restricted-use commercial fertilizer or agricultural mineral during the period the registration was not in effect.

~~5-1~~ **6.** Each person registered pursuant to this section shall maintain for at least 2 years a record of all sales of restricted-use commercial fertilizers or agricultural minerals showing:

(a) The date of sale or delivery of the restricted-use commercial fertilizer or agricultural mineral;

(b) The name and address of the person to whom the restricted-use commercial fertilizer or agricultural mineral was sold or delivered;

(c) The brand name of the restricted-use commercial fertilizer or agricultural mineral sold or delivered;

(d) The amount of the restricted-use commercial fertilizer or agricultural mineral sold or delivered; and

(e) Such other information as may be required by the Director.

~~6-1~~ **7.** Each person registered pursuant to this section shall, on or before the date specified for each reporting period established pursuant to subsection ~~7-1~~ **8**, file a report with the Director specifying the restricted-use commercial fertilizers or agricultural minerals that the person sold during the reporting period. The Director shall provide the form for the report. The report must be filed regardless of whether the person sold any commercial fertilizers or agricultural minerals during the reporting period.

~~7-1~~ **8.** The Director shall adopt regulations establishing reporting periods and dates for filing reports pursuant to subsection ~~6-1~~ **7**.

**Sec. 200.** NRS 588.350 is hereby amended to read as follows:

588.350 **1.** Any person violating any provisions of this chapter ~~[shall be guilty of a misdemeanor.]~~ **is subject to a civil penalty not to exceed:**

(a) *For the first violation, \$250.*

(b) *For a second violation, \$500.*

(c) *For each subsequent violation, \$1,000.*

**2.** *Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:*

(a) *Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and*

(b) *The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 201.** NRS 590.060 is hereby amended to read as follows:

590.060 **1.** Except as otherwise provided in NRS 590.063 and 590.065, it is unlawful for any person, or any officer, agent or employee thereof, to adulterate any petroleum product or motor vehicle fuel, to sell, attempt to sell, offer for sale or assist in the sale of any product resulting from the adulteration, and to represent the product as the petroleum product or motor vehicle fuel of

a brand name in general use by any other marketer or producer of petroleum products or motor vehicle fuel.

2. Whenever the description of any petroleum product or motor vehicle fuel is displayed on any tank, receptacle or other delivery device used for sale to the public, the kind, character and name of the petroleum product or motor vehicle fuel dispensed therefrom must correspond to the representations thereon.

3. Except as otherwise provided in this subsection, it is unlawful for any person, or any officer, agent or employee thereof, to deposit or deliver into any tank, receptacle or other container any petroleum product or motor vehicle fuel other than the petroleum product or motor vehicle fuel intended to be stored in the tank, receptacle or container and distributed therefrom, as indicated by the name of the producer, manufacturer or distributor of the product displayed on the container itself, or on the pump, dispenser or other distributing device used in connection therewith. This section does not apply to any person who sells or offers for sale under the person's name or brand name the product or output of another manufacturer or producer, with the consent of that manufacturer or producer.

4. If used oil or recycled oil, other than rerefined oil, is sold or offered for sale or delivery in this state, the container in which that oil is sold or offered for sale or delivery *or, in the case of a bulk delivery, the delivery receipt*, must bear a superimposed sign or label containing the clearly legible words "Recycled Oil" or "Used Oil."

**Sec. 202.** NRS 590.080 is hereby amended to read as follows:

590.080 1. Except as otherwise provided in subsection 2, crankcase drainings, lube-distillate, or any other petroleum product may not be sold, offered for sale, delivered, offered for delivery or stored as a motor oil or lubricating oil for use in the crankcase of an internal combustion engine unless it conforms to the performance rating set forth on its container *or, in the case of a bulk delivery, on the delivery receipt*, and the following specifications:

(a) *It must meet the specifications for engine oil performance and engine service classification set by SAE International.*

(b) It must be free from water and suspended matter when tested ~~[by means of centrifuge,]~~ in accordance with the ~~[testing]~~ procedures approved by the State Sealer of Consumer Equitability.

~~[(b)]~~ (c) The flash points for the various viscosity grade classifications must not be less than the ~~[following]~~ *most recent viscosity grade classifications determined by SAE International* when tested by the ~~[Cleveland Open Cup Method in accordance with the testing procedures approved by the State Sealer of Consumer Equitability. Except as otherwise provided in this paragraph, the]~~ *Pensky-Martens Closed Cup method. The viscosity grade classification number of motor or lubricating oils must conform to the latest [Society of Automotive Engineers] viscosity grade classification [Grade numbers 60 and 70 must conform to the requirements listed in this paragraph.*



Viscosity		Viscosity Saybolt Seconds
Minimum Flash	Universal 210 Degrees	
Classification	Degrees Fahrenheit	Fahrenheit
S.A.E. 5W	305	
S.A.E. 10W	335	
S.A.E. 20 and 20W	345	
S.A.E. 30	355	
S.A.E. 40	375	
S.A.E. 50	400	
Grade 60	435	110 to less than 125
Grade 70	470	125 to less than 150]

*determined by SAE International.*

2. The provisions of this section do not apply to any oil labeled “prediluted” or intended only for mixture with gasoline or other motor fuel in a two-cycle engine.

**Sec. 203.** NRS 590.324 is hereby amended to read as follows:

590.324 1. A person subject to a civil penalty may request an administrative hearing within 10 days after receipt of the notice of the civil penalty. The State Sealer of Consumer Equitability or a designee thereof shall conduct the hearing after giving appropriate notice to the respondent. The decision of the State Sealer of Consumer Equitability or designee is subject to appropriate judicial review.

2. If the respondent has exhausted all administrative appeals and the civil penalty has been upheld, the respondent shall pay the civil penalty:

(a) If no petition for judicial review is filed pursuant to NRS 233B.130, within 40 days after the final decision of the State Sealer of Consumer Equitability ~~or designee~~; or

(b) If a petition for judicial review is filed pursuant to NRS 233B.130 and the civil penalty is upheld, within 10 days after the effective date of the final decision of the court.

3. If the respondent fails to pay the civil penalty, a civil action may be brought by the State Sealer of Consumer Equitability in any court of competent jurisdiction to recover the civil penalty. ~~[All civil penalties collected pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.]~~

**Sec. 204.** NRS 590.380 is hereby amended to read as follows:

590.380 1. Before any antifreeze may be sold, displayed for sale or held with intent to sell within this State, ~~[a sample thereof must be inspected annually by the State Sealer of Consumer Equitability.]~~

~~2. Upon~~ **and upon** application of the manufacturer, packer, seller or distributor and the payment of a *license* fee established by regulation of the State Board of Agriculture for each brand of antifreeze submitted, the State Sealer of Consumer Equitability shall ~~[inspect the antifreeze submitted. If]~~, **if** the antifreeze ~~is~~

~~— (a) Is not adulterated or misbranded;~~  
~~— (b) Meets the standards of the State Sealer of Consumer Equitability; and~~  
~~— (c) Is] is not in violation of NRS 590.340 to 590.450, inclusive,~~  
~~[↪ the State Sealer of Consumer Equitability shall]~~ issue to the applicant a  
~~[written permit]~~ **license** authorizing its sale in this State for the fiscal year in  
 which the ~~[inspection]~~ **license** fee is paid.

~~[3.]~~ 2. If the State Sealer of Consumer Equitability at a later date finds that:

(a) The product to be sold, displayed for sale or held with intent to sell has  
 been materially altered or adulterated;  
 (b) A change has been made in the name, brand or trademark under which  
 the antifreeze is sold; or  
 (c) The antifreeze violates the provisions of NRS 590.340 to 590.450,  
 inclusive,

↪ the State Sealer of Consumer Equitability shall notify the applicant and the  
~~[permit]~~ **license** must be cancelled forthwith.

**Sec. 205.** NRS 590.420 is hereby amended to read as follows:

590.420 The State Sealer of Consumer Equitability may furnish upon  
 request a list of the brands and trademarks of antifreeze ~~[inspected]~~ **licensed**  
 by the State Sealer of Consumer Equitability or his or her agents during the  
 fiscal year which have been found to be in accord with NRS 590.340 to  
 590.450, inclusive.

**Sec. 206.** NRS 590.430 is hereby amended to read as follows:

590.430 No advertising literature relating to any antifreeze sold or to be  
 sold in this State shall contain any statement that the antifreeze advertised for  
 sale has been approved by the State Sealer of Consumer Equitability; but if  
 any antifreeze has been ~~[inspected]~~ **licensed** by the State Sealer of Consumer  
 Equitability and found ~~[to meet the standards of the State Sealer of Consumer  
 Equitability and]~~ not to be in violation of NRS 590.340 to 590.450, inclusive,  
 such statement may be contained in any advertising literature where such  
 brand or trademark of antifreeze is being advertised for sale.

**Sec. 207.** NRS 590.450 is hereby amended to read as follows:

590.450 ~~[If any]~~

1. Any person ~~[partnership, corporation or association shall violate the  
 provisions]~~ **violating any provision** of NRS 590.340 to 590.440, inclusive,  
~~[such person, partnership, corporation or association shall be guilty of a  
 misdemeanor.]~~ **is subject to a civil penalty not to exceed:**

(a) **For the first violation, \$250.**

(b) **For a second violation, \$500.**

(c) **For each subsequent violation, \$1,000.**

2. **Any money collected from the imposition of a civil penalty pursuant  
 to subsection 1 must be accounted for separately and:**

(a) **Fifty percent of the money must be used to fund a program selected by  
 the Director of the State Department of Agriculture that provides loans to  
 persons who are engaged in agriculture and who are 21 years of age or  
 younger; and**

*(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.*

**Sec. 208.** 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of regulations is transferred.

2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement have been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement have been transferred.

3. Any actions taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of the actions was transferred.

**Sec. 209.** The Legislative Counsel shall, in preparing the Nevada Revised Statutes or any supplements to the Nevada Administrative Code, use the authority set forth in subsection 10 of NRS 220.120 to change appropriately the name of any agency, officer or instrumentality of the State whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate agency, officer or instrumentality.

**Sec. 210.** NRS 552.090, 552.300, 552.310, 554.085, 554.090, 554.180, 555.23572, 555.2665, 562.195, 583.020, 583.515, 583.525, 583.535, 586.460, 586.470, 586.480, 586.490, 586.500, 586.510, 586.520, 588.240, 588.250, 590.440, 590.700, 590.710, 590.720, 590.725, 590.726, 590.730, 590.740, 590.750, 590.760, 590.765, 590.770, 590.780, 590.790, 590.800, 590.810, 590.820, 590.830, 590.835, 590.840, 590.850, 590.860, 590.870, 590.880, 590.890, 590.900, 590.910 and 590.920 are hereby repealed.

**Sec. 211.** This act becomes effective:

1. Upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On July 1, 2015, for all other purposes.

#### LEADLINES OF REPEALED SECTIONS

**552.090** Control of apiary industry: Authority of Department; adoption of regulations; imposition and deposit of civil penalties.

**552.300** Prosecution of violations.

- 552.310 Penalty.
- 554.085 Civil penalties.
- 554.090 Criminal penalties.
- 554.180 Procedure for indemnification for loss by destruction.
- 555.23572 "Pest" defined.
- 555.2665 "Pest" defined.
- 562.195 State Sheep Inspection Account: Agreement with board of county commissioners for administration; annual statement by county treasurer; reimbursement for administration; termination of agreement.
- 583.020 Sale of flesh of diseased animal or shellfish containers without approved stamp is gross misdemeanor.
- 583.515 Exemptions.
- 583.525 Denial of inspection.
- 583.535 Regulations of State Board of Health; appointment of necessary personnel.
- 586.460 "Dangerous caustic or corrosive substance" defined.
- 586.470 "Misbranded parcel, package or container" defined.
- 586.480 Sale of dangerous caustic or corrosive substance for household use in misbranded parcel, package or container prohibited.
- 586.490 Misbranded dangerous caustic or corrosive substance may be proceeded against in justice court; condemnation, destruction or sale; disposition of sale proceeds.
- 586.500 Enforcement by Commissioner of Food and Drugs; approval and registration of brands and labels.
- 586.510 Duties of district attorney.
- 586.520 Penalty.
- 588.240 Assessment and payment of penalties when fertilizer or mineral is short of guaranteed analysis; appeal.
- 588.250 Annual determination and publication of values per pound of nitrogen, phosphoric acid and soluble potash.
- 590.440 Institution of proceedings by district attorney.
- 590.700 Definitions.
- 590.710 "Board" defined.
- 590.720 "Department" defined.
- 590.725 "Diesel fuel of grade number 1" defined.
- 590.726 "Diesel fuel of grade number 2" defined.
- 590.730 "Discharge" defined.
- 590.740 "Division" defined.
- 590.750 "Fund" defined.
- 590.760 "Heating oil" defined.
- 590.765 "Motor vehicle fuel" defined.
- 590.770 "Operator" defined.
- 590.780 "Person" defined.
- 590.790 "Petroleum" defined.
- 590.800 "Storage tank" defined.

**590.810 Legislative findings.**

**590.820 Board to Review Claims: Creation; members; Chair; administrative assistance; compensation of members.**

**590.830 Fund for Cleaning Up Discharges of Petroleum: Creation; administration by Division; adoption of regulations by Board; claims; expenses and interest; resolutions adopted by Board concerning Fund.**

**590.835 Fund for Cleaning Up Discharges of Petroleum: Expenditures for certain discharges; limitations; reimbursement.**

**590.840 Collection of fee for certain fuels and heating oil; exempt products; payment of expenses of Department.**

**590.850 Registration of storage tanks: Collection of annual fee; exempt tanks; reimbursement and other liability for noncompliance.**

**590.860 Transfer of portion of ending balance in Fund to account created in NRS 408.242.**

**590.870 Report of discharge from tank required; Division to clean up discharge; exception; reimbursement; test of tank required for coverage.**

**590.880 Allocation of costs resulting from discharge from certain storage tanks for heating oil.**

**590.890 Allocation of costs resulting from discharge from other storage tanks; requirement to hold public hearings under certain circumstances.**

**590.900 Liability for costs to clean up discharge caused by willful or wanton misconduct, gross negligence or violation of statute or regulation.**

**590.910 Pro rata reduction required if balance in Fund insufficient for full payment.**

**590.920 Tanks exempted from certain provisions; optional coverage of exempted tank.**

Assemblyman Paul Anderson moved the adoption of the amendment.

Remarks by Assemblyman Paul Anderson.

ASSEMBLYMAN PAUL ANDERSON:

Primarily, this amendment removes all the fees.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 480.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1003.

AN ACT relating to mortgage lending; revising provisions governing the licensing and regulation of escrow agents, escrow agencies, mortgage brokers, mortgage agents and mortgage bankers; authorizing a wholesale lender from outside this State to conduct business in this State; providing for the licensure and regulation of such a wholesale lender as a mortgage broker or mortgage

banker; increasing certain fees relating to escrow agents, escrow agencies, mortgage brokers, mortgage agents and mortgage bankers; requiring the Commissioner of Mortgage Lending to prescribe by regulation the requirements for the licensing, regulation and discipline of mortgage servicers; revising provisions governing the administration of the Division of Mortgage Lending of the Department of Business and Industry; **revising certain provisions relating to thrift companies**; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law creates the Division of Mortgage Lending within the Department of Business and Industry and authorizes the Division to license and regulate escrow agents, escrow agencies, mortgage brokers, mortgage agents, mortgage bankers, foreclosure consultants and loan modification consultants. (Chapters 645A, 645B, 645E and 645F of NRS) Existing law establishes the Commissioner of Mortgage Lending, and makes the Commissioner the chief of the Division. (NRS 232.520, 645A.010)

**Sections 3-10** of this bill revise various provisions governing the licensing and regulation of escrow agents and escrow agencies. **Sections 15-15.8** of this bill authorize a wholesale lender from outside this State to operate in this State as a mortgage broker. **Sections 16 and 17** of this bill increase certain fees related to mortgage brokers.

**Sections 18-18.8** of this bill authorize a wholesale lender from outside this State to operate in this State as a mortgage banker. **Section 19** of this bill increases certain fees related to mortgage bankers.

**Sections 86.2-86.7** of this bill provide for the licensure, regulation and discipline of mortgage servicers through regulations adopted by the Commissioner of Mortgage Lending.

**Sections 89 and 92** of this bill revise certain provisions related to the powers and duties of the Commissioner. **Sections 101.3 and 101.7 revise certain provisions relating to thrift companies.** **Section 102** of this bill repeals two sections of existing law that are made redundant by other provisions of this bill.

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

**Section 1.** NRS 645.8725 is hereby amended to read as follows:

645.8725 "Escrow" has the meaning ascribed to it in ~~{subsection 4 of}~~ NRS 645A.010.

**Sec. 2.** NRS 645.8731 is hereby amended to read as follows:

645.8731 "Escrow agent" has the meaning ascribed to it in ~~{subsection 6 of}~~ NRS 645A.010.

**Sec. 3.** Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

**Sec. 4. 1.** *The Commissioner may require that any application, fee, fine, form or filing required pursuant to this chapter be submitted to the*

*Commissioner through the Registry and that the applicant or licensee pay any costs associated with the use of the Registry.*

*2. All fees, assessments or penalties received by the Commissioner pursuant to this chapter are in addition to any costs or fees that may be required by the Registry and are nonrefundable. All fees, assessments and penalties received by the Commissioner pursuant to this chapter must be deposited in the Account for Mortgage Lending created by NRS 645F.270.*

*Sec. 5. 1. An escrow agent shall not act as or provide the services of an escrow agent on behalf of any escrow agency other than an escrow agency that has notified the Commissioner pursuant to subsection 2 that the escrow agent is employed by and associated with that escrow agency.*

*2. Before employing or associating with an escrow agent to administer escrows on its behalf, an escrow agency must:*

*(a) File with the Commissioner, on a form and in a manner prescribed by the Commissioner, a request to associate with the escrow agent; and*

*(b) Pay the fee required by NRS 645A.040.*

*3. An escrow agent shall not associate or begin employment with an escrow agency until the Commissioner has provided notice to the escrow agency of acceptance of the request to associate with the escrow agent.*

*4. An escrow agent shall not directly or indirectly receive any compensation, remuneration or fees related to the business of administering escrows from any escrow agency that the escrow agent is not associated with and employed by pursuant to this section.*

*Sec. 6. NRS 645A.010 is hereby amended to read as follows:*

*645A.010 As used in this chapter, unless the context otherwise requires:*

*1. “Business of administering escrows” or “administering escrows” means the process of managing, conducting or supervising an escrow or escrow-related transaction as an escrow agent or escrow agency.*

*2. “Client” means a person that has engaged an escrow agent or escrow agency to administer an escrow related to a transaction.*

*3. “Commissioner” means the Commissioner of Mortgage Lending.*

~~{2-}~~ *4. “Construction control” has the meaning ascribed to it in NRS 627.050.*

~~{3-}~~ *5. “Control person” means an executive officer, director, general partner, trustee, member or shareholder of an applicant or a licensee, or a person, who has the authority to participate in the direction, directly or indirectly through one or more other persons, of the management or policies of an applicant or a licensee.*

*6. “Division” means the Division of Mortgage Lending of the Department of Business and Industry.*

~~{4-}~~ *7. “Escrow” means any transaction wherein one person, for the purpose of effecting or closing the sale, purchase, exchange, transfer, encumbering or leasing of real or personal property to another person ~~{1-}~~ or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such*





(d) Any firm or corporation which lends money on real or personal property and is subject to licensing, supervision or auditing by an agency of the United States or of this State ~~[-~~

~~—4.] ; or~~

(e) Any person doing any act under order of any court.

3. *As used in this section, “law firm” has the meaning ascribed to it in NRS 38.435.*

Sec. 8. NRS 645A.020 is hereby amended to read as follows:

645A.020 1. ~~[A person who wishes to be licensed as an escrow agent or agency must file a written application in the Office of the Commissioner.] An application for, or renewal of, a license as an escrow agency or escrow agent shall be made in writing to the Commissioner on a form and in a manner prescribed by the Commissioner.~~

2. ~~[The application must:~~

~~—(a) Be verified.~~

~~—(b) Be accompanied by the appropriate fee prescribed in NRS 645A.040.~~

~~—(c) State the location of the applicant’s principal office and branch offices in the State and residence address.~~

~~—(d) State the name under which the applicant will conduct business.~~

~~—(e) List the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each.~~

~~—(f) Indicate the general plan and character of the business.~~

~~—(g) State the length of time the applicant has been engaged in the escrow business.~~

~~—(h) Require a financial statement of the applicant.~~

~~—(i) Require such other information as the Commissioner determines necessary.~~

~~—(j) If for an escrow agency, designate a natural person to receive service of process in this State for the agency.~~

~~—(k) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the escrow agency as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~—(l) Include all information required to complete the application.] An applicant shall include in an application for an initial license:~~

(a) *Any application fee required pursuant to NRS 645A.040;*

(b) *All content required to be included in the application by the Commissioner;*

(c) *Written consent authorizing the Commissioner to conduct a background investigation of the applicant and, if applicable, each control*

*person of the applicant, including, without limitation, authorization to obtain:*

*(1) An independent credit report from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);*

*(2) A criminal history report from the Federal Bureau of Investigation or any criminal history repository of any state, national or international governmental agency or entity; and*

*(3) Information related to any administrative, civil or criminal proceedings in any jurisdiction in which the applicant, or a control person of the applicant, is or has been a party;*

*(d) A complete set of fingerprints of the applicant or, if the applicant is not a natural person, a complete set of fingerprints of each control person of the applicant to forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and*

*(e) Any other information required by this chapter, the Commissioner, an order of the Commissioner or requested in connection with the evaluation and investigation of the qualifications and suitability of the applicant for licensure.*

*3. The applicant shall include in an application for renewal of an existing license:*

*(a) Any renewal fee required pursuant to NRS 645A.040;*

*(b) All content required by the Commissioner in the application form; and*

*(c) Any other information required by this chapter, the Commissioner, an order of the Commissioner or requested in connection with the evaluation and investigation of the qualifications and suitability of the applicant for licensure.*

*4. If the Commissioner determines, after investigation, that the experience, character, financial condition, business reputation and general fitness of the applicant, or the control persons of the applicant, are such as to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public, the Commissioner shall issue or renew a license to the applicant as an escrow agent or escrow agency.*

~~[4.—The Commissioner may waive the investigation required by subsection 3 if the applicant submits with the application satisfactory proof that the applicant, in good standing, currently holds a license, or held a license, within 1 year before the date the applicant submits his or her application, which was issued pursuant to the provisions of NRS 692A.103.]~~

*5. An [escrow agent or agency shall immediately notify] applicant for a license, and a licensee upon the issuance or renewal of a license, shall have a continuing obligation to provide written notification to the Division of any material change in the information contained in the application [—]for an initial license or renewal of an existing license.*

6. A person may not be licensed as an escrow agent or agency or be a ~~[principal, partner, officer, director or trustee]~~ **control person** of an escrow agency if the person is the holder of an active license issued pursuant to chapter 645 of NRS.

7. If the Commissioner finds that additional information is required to consider the application, the Commissioner shall send a letter to the applicant which specifies the additional requirements that the applicant must satisfy within 30 days after receiving the letter to obtain a license. If the applicant does not satisfy all additional requirements set forth in the letter within 30 days after receipt of the letter, the application will be deemed to have been denied, and the applicant must reapply to obtain a license. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.

**Sec. 9.** NRS 645A.032 is hereby amended to read as follows:

645A.032 1. The Division shall issue to each licensee a license which:

(a) Shows the name and address of the licensee, and in the case of an escrow agent, the name of the **licensed** escrow agency with whom the escrow agent will be **employed and** associated ~~[ ]~~; **and**

(b) ~~[Has imprinted thereon the seal of the Division.]~~

~~—(c)]~~ Contains any additional ~~[matter]~~ **information** prescribed by the ~~[Division.]~~ **Commissioner.**

2. No escrow agent may be associated with ~~[or]~~ **and** employed by more than one escrow agency at the same time.

**Sec. 10.** NRS 645A.036 is hereby amended to read as follows:

645A.036 1. Every escrow agency shall maintain a definite place of business, ~~[within the State,]~~ which must be a room or rooms used for the transaction of escrows, or such business and any allied businesses, and which must serve as the office for the transaction of business pursuant to the authority granted in the license.

2. The place of business must be specified in the application for the license and so designated on the license.

3. A license does not authorize the licensee to transact business from any office other than that designated in the license.

**Sec. 11.** (Deleted by amendment.)

**Sec. 11.5.** NRS 645A.041 is hereby amended to read as follows:

645A.041 1. Except as otherwise provided in NRS 645A.042, as a condition to doing business in this State, each escrow agency shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 4, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the escrow agency and all escrow agents employed by ~~[or]~~ **and** associated with the escrow agency.

2. At the time of filing an application for a license as an escrow agent, the applicant shall file with the Commissioner proof that the applicant is named as a principal on the corporate surety bond deposited with the Commissioner by the escrow agency with whom he or she is associated ~~[or]~~ **and** employed.

3. The bond must be in substantially the following form:

Know All Persons by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 645A of NRS, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the principal has been issued a license as an escrow agency or escrow agent by the Commissioner of Mortgage Lending of the Department of Business and Industry of the State of Nevada and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his or her agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the .....(day) of .....(month) of .....(year), and remains in force until the surety is released from liability by the Commissioner of Mortgage Lending or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Mortgage Lending of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this .....(day) of .....(month) of .....(year).

.....(Seal)

Principal

.....(Seal)

Surety

By .....

Attorney-in-fact

.....

Nevada Licensed Insurance Agent

4. Each escrow agency shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 645A.042 in the following amount based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160:

AVERAGE MONTHLY BALANCE	AMOUNT OF BOND OR SECURITY REQUIRED
\$50,000 or less.....	\$20,000
More than \$50,000 but not more than \$250,000 .....	50,000
More than \$250,000 but not more than \$500,000 .....	100,000
More than \$500,000 but not more than \$750,000 .....	150,000
More than \$750,000 but not more than \$1,000,000 .....	200,000
More than \$1,000,000 .....	250,000

The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the escrow agency based upon the expected average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160. After the initial deposit, the Commissioner shall, on a semiannual basis, determine the appropriate amount of the surety bond or substitute form of security that must be deposited by the escrow agency based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160.

5. A bond used to satisfy the requirements of NRS 627.180 or a substitute for that bond which satisfies the requirements of NRS 627.183 may be used to satisfy the requirements of this section if:

(a) The amount required by NRS 627.180 for a bond is not less than the amount required by this section for a bond; or

(b) The amount required by NRS 627.180 for a bond is less than the amount required by this section for a bond, and the escrow agency deposits an additional bond in an amount not less than the difference between the amount required by NRS 627.180 and the amount required by this section.

**Sec. 11.7.** NRS 645A.196 is hereby amended to read as follows:

645A.196 1. Whenever an escrow agent terminates, for any reason, his or her employment with the escrow agency with whom the escrow agent was associated, the escrow agency shall:

(a) Immediately deliver or send by certified mail to the Division the escrow agent's license, together with a written statement of the circumstances surrounding the termination.

(b) At the time of delivering or mailing the license to the Division, address a communication to the last known residence address of the escrow agent, advising the escrow agent that his or her license has been delivered or mailed to the Division. A copy of the communication must accompany the license when delivered or mailed to the Division.

2. An escrow agent shall not perform either directly or indirectly any act for which a license is required pursuant to this chapter:

(a) On or after the date the Division receives the escrow agent's license from the escrow agency until the license is transferred or reissued or until a new license is issued.

(b) Without being associated with ~~for~~ **and** employed by a licensed escrow agency.

**Sec. 12.** NRS 645A.221 is hereby amended to read as follows:

645A.221 If a person, or any general partner, director, officer, agent or employee of a person, violates the provisions of NRS ~~[645A.210]~~ **645A.015** or 645A.220:

1. Any contracts entered into by that person for the escrow transaction are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$50,000.

**Sec. 13.** NRS 645A.222 is hereby amended to read as follows:

645A.222 In addition to any other remedy or penalty, if a person violates the provisions of NRS ~~[645A.210]~~ **645A.015** or 645A.220, the respective parties to the escrow transaction may bring a civil action against the person for:

1. Actual and consequential damages;
2. Punitive damages, which are subject to the provisions of NRS 42.005;
3. Reasonable attorney's fees and costs; and
4. Any other legal or equitable relief that the court deems appropriate.

**Sec. 14.** NRS 645A.230 is hereby amended to read as follows:

645A.230 Any person who violates:

1. NRS **645A.015**, 645A.160 ~~[, 645A.210]~~ or 645A.220 is guilty of a gross misdemeanor.

2. Any other provision of this chapter is guilty of a misdemeanor.

**Sec. 15.** Chapter 645B of NRS is hereby amended by adding thereto a new section to read as follows:

***"Wholesale lender" means a person who:***

***1. Holds himself or herself out:***

***(a) For hire to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on real property;***

***(b) As being able to make loans secured by liens on real property; or***

***(c) As being able to buy or sell notes secured by liens on real property;***  
***and***

***2. Does not directly:***

***(a) Take or receive an application from a borrower for a loan which will be secured by a lien on real property; or***

***(b) Negotiate any terms with a borrower relating to a loan which will be secured by a lien on real property.***

**Sec. 15.4.** NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0104 to 645B.0135, inclusive, *and section 15 of this act* have the meanings ascribed to them in those sections.

**Sec. 15.6.** NRS 645B.0127 is hereby amended to read as follows:

645B.0127 1. “Mortgage broker” means a person who, directly or indirectly:

(a) Holds himself or herself out for hire to serve as an agent for any person in an attempt to obtain a loan which will be secured by a lien on real property;

(b) Holds himself or herself out for hire to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on real property;

(c) Holds himself or herself out as being able to make loans secured by liens on real property;

(d) Holds himself or herself out as being able to buy or sell notes secured by liens on real property; or

(e) Offers for sale in this State any security which is exempt from registration under state or federal law and purports to make investments in promissory notes secured by liens on real property.

2. *The term includes a wholesale lender.*

3. The term does not include a person who is licensed as a mortgage banker, as defined in NRS 645E.100, unless the person is also licensed as a mortgage broker pursuant to this chapter.

**Sec. 15.8.** NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. The Commissioner may require the applicant or person to submit the information or pay the fee directly to the Division or, if the applicant or person is required to register or voluntarily registers with the Registry, to the Division through the Registry. An application for a license as a mortgage broker must:

(a) State the name, residence address and business address of the applicant and, *if the applicant is a mortgage broker other than a wholesale lender*, the location of each principal office and branch office at which the mortgage broker will conduct business within this State . ~~[including, without limitation,]~~

(b) *State the location of any principal office*, office or other place of business located outside this State from which the mortgage broker will conduct business in this State and any office or other place of business which the applicant maintains as a corporate or home office.

~~[(b)]~~ (c) State the name under which the applicant will conduct business as a mortgage broker.

~~[(c)]~~ (d) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

~~[(d)]~~ (e) Include a general business plan and a description of the policies and procedures that the mortgage broker and his or her mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

~~[(e)]~~ (f) State the length of time the applicant has been engaged in the business of a mortgage broker.

~~[(f)]~~ (g) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

~~[(g)]~~ (h) Include all information required to complete the application.

~~[(h)]~~ (i) Unless fingerprints were submitted to the Registry for the person, include a complete set of fingerprints for each natural person who is a principal, partner, officer, director or trustee of the applicant which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

~~[(i)]~~ (j) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business in this State at one or more branch offices, the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided by law, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter.

(2) Has not been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering.

(3) Has not made a false statement of material fact on the application.

(4) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in



this State or any other jurisdiction or had a financial services license revoked within the immediately preceding 10 years.

(5) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State ~~[-]~~ ***or if the applicant will conduct business in this State only as a wholesale lender,*** and the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available ***electronically or*** at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

➡ The applicant must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

**Sec. 16.** NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

(a) An application for renewal;  
(b) The fee required to renew the license pursuant to this section;  
(c) The information required pursuant to NRS 645B.051; and  
(d) All information required by the Commissioner or, if applicable, required by the Registry to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the license is cancelled as of December 31 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner on or before February 28 of the following year:

(a) An application for renewal;  
(b) The fee required to renew the license pursuant to this section;  
(c) The information required pursuant to NRS 645B.051;  
(d) Except as otherwise provided in this section, a reinstatement fee of not more than \$200; and  
(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or after November 1 and on or before December 31 of each year or on a date otherwise specified by the Commissioner by regulation:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner on or before February 28 of the following year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, not more than \$1,500 for the principal office and not more than ~~[\$40]~~ **\$400** for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than \$1,000 for the principal office and not more than ~~[\$60]~~ **\$100** for each branch office.

(c) To renew a license, not more than \$500 for the principal office and not more than \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter are in addition to any fee required to be paid to the Registry and

must be deposited in the Account for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee or date set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

10. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Commissioner or, if the licensee is required to register or voluntarily registers with the Registry, to the Commissioner through the Registry.

**Sec. 17.** NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires each year on December 31, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must continue to meet the requirements of subsection 3 of NRS 645B.410 and must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

- (a) An application for renewal;
- (b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and
- (c) A renewal fee set by the Commissioner of not more than \$170.

2. In lieu of the continuing education requirement set forth in paragraph (b) of subsection 1, the holder of a license as a mortgage agent who, pursuant to subsection 1 of NRS 645F.267, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:

- (a) At least 3 hours relating to the laws and regulations of this State; and
- (b) At least 2 hours relating to ethics.

3. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 or 2 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the license is cancelled as of December 31 of that year. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner on or before February 28 of the following year:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section; and
- (c) A reinstatement fee of \$75.

4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee ~~of \$10.~~ ***in an amount prescribed by regulation of the Commissioner, not to exceed \$50.***

5. Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Account for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Division or, if the licensee is required to register or voluntarily registers with the Registry, to the Division through the Registry.

7. Nothing in this section shall be construed as preventing the Commissioner from renewing the license of a mortgage agent who does not satisfy the criteria set forth in paragraph (e) of subsection 1 of NRS 645B.410 at the time of the application for renewal.

8. As used in this section, “certified course of continuing education” has the meaning ascribed to it in NRS 645B.051.

**Sec. 18.** Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

**1. “Wholesale lender” means a person who:**

**(a) Directly or indirectly holds himself or herself out as being able to:**

**(1) Buy or sell notes secured by liens on real property; or**

**(2) Make loans secured by liens on real property using his or her own money;**

**(b) Does not directly:**

**(1) Take or receive an application from a borrower for a loan which will be secured by a lien on real property; or**

**(2) Negotiate any terms with a borrower relating to a loan which will be secured by a lien on real property; and**

**(c) Does not engage in any other act or transaction described in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.**

**2. For the purposes of this section, a person does not make a loan secured by a lien on real property using his or her own money if any portion of the money that is used to make the loan is provided by another person who acquires ownership of or a beneficial interest in the loan.**

**Sec. 18.4.** NRS 645E.010 is hereby amended to read as follows:

645E.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to 645E.105, inclusive, **and section 18 of this act** have the meanings ascribed to them in those sections.

**Sec. 18.6.** NRS 645E.100 is hereby amended to read as follows:

645E.100 1. “Mortgage banker” means any of the following:

(a) A person who, directly or indirectly:

(1) Holds himself or herself out as being able to:

(I) Buy or sell notes secured by liens on real property; or

(II) Make loans secured by liens on real property using his or her own money; and

(2) Does not engage in any other act or transaction described in the definition of “mortgage broker,” as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

(b) A person who, directly or indirectly:

(1) Negotiates, originates or makes or offers to negotiate, originate or make commercial mortgage loans as an agent for or on behalf of an institutional investor; and

(2) Does not engage in any other act or transaction described in the definition of “mortgage broker,” as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

2. ***The term includes a wholesale lender.***

3. For the purposes of this section, a person does not make a loan secured by a lien on real property using his or her own money if any portion of the money that is used to make the loan is provided by another person who acquires ownership of or a beneficial interest in the loan.

**Sec. 18.8.** NRS 645E.200 is hereby amended to read as follows:

645E.200 1. A person who wishes to be licensed as a mortgage banker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645E.280. An application for a license as a mortgage banker must:

(a) Be verified.

(b) State the name, residence address and business address of the applicant and, ***if the applicant is a mortgage banker other than a wholesale lender***, the location of each principal office and branch office at which the mortgage banker will conduct business in this State. ~~[-including, without limitation,]~~

(c) ***State the location of any principal office***, office or other place of business located outside this State from which the mortgage banker will conduct business in this State and any office or other place of business which the applicant maintains as a corporate or home office.

~~[(e)]~~ (d) State the name under which the applicant will conduct business as a mortgage banker.

~~[(d)]~~ (e) If the applicant is not a natural person, list the name, residence address and business address of each person who will have an interest in the mortgage banker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

~~[(e)]~~ (f) Indicate the general plan and character of the business.

~~[(f)]~~ (g) State the length of time the applicant has been engaged in the business of a mortgage banker.

~~[(g)]~~ (h) Include a financial statement of the applicant.

~~[(h)]~~ (i) Include a complete set of fingerprints for each natural person who is a principal, partner, officer, director or trustee of the applicant which the Division may forward to the Central Repository for Nevada Records of

Criminal History for submission to the Federal Bureau of Investigation for its report.

~~[(4)]~~ (j) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage banker will conduct business in this State at one or more branch offices, the mortgage banker must apply for a license for each such branch office.

3. Except as otherwise provided by law, the Commissioner shall issue a license to an applicant as a mortgage banker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter, other applicable law and, if applicable, the Registry; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter. For the purposes of this subparagraph, the factors considered in determining whether a person has demonstrated financial responsibility include, without limitation:

(I) Whether the person's personal credit history indicates any adverse material items, including, without limitation, liens, judgments, disciplinary action, bankruptcies, foreclosures or failures to comply with court-approved payment plans;

(II) The circumstances surrounding any adverse material items in the person's personal credit history; and

(III) Any instance of fraud, misrepresentation, dishonest business practices, the mishandling of trust funds or other types of comparable behavior.

(2) Has not been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering.

(3) Has not made a false statement of material fact on the application.

(4) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license revoked within the immediately preceding 10 years.

(5) Has not violated any provision of this chapter or chapter 645B of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. If an applicant is a partnership, corporation or unincorporated association, the Commissioner may refuse to issue a license to the applicant if any member of the partnership or any officer or director of the corporation or

unincorporated association has committed any act or omission that would be cause for refusing to issue a license to a natural person.

5. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State ***or if the applicant will conduct business in this State only as a wholesale lender***, and ~~if~~ the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available ***electronically or*** at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

➡ The applicant must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

**Sec. 19.** NRS 645E.280 is hereby amended to read as follows:

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; and

(c) All information required by the Commissioner or, if applicable, required by the Registry to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the license is cancelled as of December 31 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner on or before February 28 of the following year:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section;

(c) Except as otherwise provided in this section, a reinstatement fee of not more than \$200; and

(d) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31,

unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner on or before February 28 of the following year:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, not more than \$1,500 for the principal office and not more than ~~[\$40]~~ **\$400** for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than \$1,000 for the principal office and not more than ~~[\$60]~~ **\$100** for each branch office.

(c) To renew a license, not more than \$500 for the principal office and not more than \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter are in addition to any fee required to be paid to the Registry and must be deposited in the Account for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter.



The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

10. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Division or, if the licensee is required to register or voluntarily registers with the Registry, to the Division through the Registry.

**Sec. 20.** Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 21 to 86.7, inclusive, of this act.

**Sec. 21.** (Deleted by amendment.)

**Sec. 22.** (Deleted by amendment.)

**Sec. 23.** (Deleted by amendment.)

**Sec. 24.** (Deleted by amendment.)

**Sec. 25.** (Deleted by amendment.)

**Sec. 26.** (Deleted by amendment.)

**Sec. 27.** (Deleted by amendment.)

**Sec. 28.** (Deleted by amendment.)

**Sec. 29.** (Deleted by amendment.)

**Sec. 30.** (Deleted by amendment.)

**Sec. 31.** (Deleted by amendment.)

**Sec. 32.** (Deleted by amendment.)

**Sec. 33.** (Deleted by amendment.)

**Sec. 34.** (Deleted by amendment.)

**Sec. 35.** (Deleted by amendment.)

**Sec. 36.** (Deleted by amendment.)

**Sec. 37.** (Deleted by amendment.)

**Sec. 38.** (Deleted by amendment.)

**Sec. 39.** (Deleted by amendment.)

**Sec. 40.** (Deleted by amendment.)

**Sec. 41.** (Deleted by amendment.)

**Sec. 42.** (Deleted by amendment.)

**Sec. 43.** (Deleted by amendment.)

**Sec. 44.** (Deleted by amendment.)

**Sec. 45.** (Deleted by amendment.)

**Sec. 46.** (Deleted by amendment.)

**Sec. 47.** (Deleted by amendment.)

**Sec. 48.** (Deleted by amendment.)

**Sec. 49.** (Deleted by amendment.)

**Sec. 50.** (Deleted by amendment.)

**Sec. 51.** (Deleted by amendment.)

**Sec. 52.** (Deleted by amendment.)

**Sec. 53.** (Deleted by amendment.)

**Sec. 54.** (Deleted by amendment.)

**Sec. 55.** (Deleted by amendment.)

**Sec. 56.** (Deleted by amendment.)

- Sec. 57. (Deleted by amendment.)
- Sec. 58. (Deleted by amendment.)
- Sec. 59. (Deleted by amendment.)
- Sec. 60. (Deleted by amendment.)
- Sec. 61. (Deleted by amendment.)
- Sec. 62. (Deleted by amendment.)
- Sec. 63. (Deleted by amendment.)
- Sec. 64. (Deleted by amendment.)
- Sec. 65. (Deleted by amendment.)
- Sec. 66. (Deleted by amendment.)
- Sec. 67. (Deleted by amendment.)
- Sec. 68. (Deleted by amendment.)
- Sec. 69. (Deleted by amendment.)
- Sec. 70. (Deleted by amendment.)
- Sec. 71. (Deleted by amendment.)
- Sec. 72. (Deleted by amendment.)
- Sec. 73. (Deleted by amendment.)
- Sec. 74. (Deleted by amendment.)
- Sec. 75. (Deleted by amendment.)
- Sec. 76. (Deleted by amendment.)
- Sec. 77. (Deleted by amendment.)
- Sec. 78. (Deleted by amendment.)
- Sec. 79. (Deleted by amendment.)
- Sec. 80. (Deleted by amendment.)
- Sec. 81. (Deleted by amendment.)
- Sec. 82. (Deleted by amendment.)
- Sec. 83. (Deleted by amendment.)
- Sec. 84. (Deleted by amendment.)
- Sec. 85. (Deleted by amendment.)
- Sec. 86. (Deleted by amendment.)

Sec. 86.2. *“Mortgage servicer” means a person who directly services a mortgage loan, or who is responsible for interacting with a borrower, managing a loan account on a daily basis, including, without limitation, collecting and crediting periodic loan payments, managing any escrow account or enforcing the note and security instrument, either as the current owner of the promissory note or as the authorized agent of the current owner of the promissory note. The term includes a person providing such services by contract as a subservicing agent to a master servicer by contract. The term does not include a trustee under a deed of trust, or the trustee’s authorized agent, acting under a power of sale pursuant to a deed of trust.*

Sec. 86.3. *Except as otherwise provided in section 86.7 of this act, a person shall not engage in the business of a mortgage servicer or hold himself or herself out as a mortgage servicer in this State without a license issued pursuant to this chapter.*

Sec. 86.4. 1. *The Commissioner:*

*(a) Shall adopt regulations establishing the requirements for the licensure and supervision of mortgage servicers in this State.*

*(b) May adopt any other regulations necessary to carry out the provisions of sections 86.3 to 86.7, inclusive, of this act.*

*2. The regulations adopted pursuant to subsection 1 must:*

*(a) Prescribe the form and contents of an application for the initial issuance and renewal of a license as a mortgage servicer.*

*(b) Prescribe the manner in which an application may be approved or denied.*

*(c) Prescribe the grounds and procedures for the revocation, suspension, denial or nonrenewal of a license.*

*(d) Establish reasonable fees for an application, the initial issuance of a license and the renewal of a license.*

*(e) Establish the manner in which the Commissioner may take appropriate disciplinary action, including, without limitation, the imposition of an administrative fine, against any person for a violation of any regulation adopted pursuant to subsection 1 or any provision of sections 86.3 to 86.7, inclusive, of this act.*

**Sec. 86.5. 1. A mortgage servicer shall comply with:**

*(a) The relevant provisions of 12 C.F.R. Part 1024, commonly known as Regulation X, and 12 C.F.R. Part 1026, commonly known as Regulation Z, as those regulations are amended by the Final Servicing Rules issued by the Consumer Financial Protection Bureau in 78 Federal Register 10696 and 10902 on February 14, 2013, and any amendments thereto.*

*(b) Any other applicable federal or state law or regulation or any order of the Commissioner.*

*2. The Commissioner shall conduct any examination or investigation of a mortgage servicer or applicant for the issuance of a license as a mortgage servicer as may be necessary to ensure compliance with the provisions of sections 86.3 to 86.7, inclusive, of this act, and any regulations adopted pursuant thereto.*

*3. If the Commissioner, upon examination or investigation of a mortgage servicer or applicant for the issuance of a license as a mortgage servicer, determines that the mortgage servicer or applicant has violated any applicable provision of section 86.3 to 86.7, inclusive, of this act, or any regulations adopted pursuant thereto, the Commissioner may take such disciplinary action against the mortgage servicer or applicant as may be authorized by regulation of the Commissioner.*

**Sec. 86.6. 1. Except as otherwise provided in NRS 645F.267 and 645F.293, the Commissioner shall require a person to submit to the Commissioner through the Registry:**

*(a) An application for the initial issuance or the renewal of a license as a mortgage servicer, including any fees related to the issuance or renewal of a license.*

*(b) Any form or filing that a mortgage servicer is otherwise required to submit to the Commissioner.*

*(c) Any administrative fine assessed against the person pursuant to the regulations adopted pursuant to section 86.4 of this act.*

*(d) Any costs associated with the submittal of any document, information, fee or fine through the Registry.*

*2. Any fees and costs received pursuant to subsection 1 are nonrefundable.*

*3. Except as otherwise provided in this chapter, all fees and costs received pursuant to sections 86.3 to 86.7, inclusive, of this act are in addition to any fee or cost required to be paid to the Registry and must be deposited in the Account for Mortgage Lending created by NRS 645F.270.*

*Sec. 86.7. The provisions of sections 86.3 to 86.7, inclusive, of this act do not apply to:*

*1. A depository financial institution, as that term is defined in NRS 645E.060, or any subsidiary or holding company of a depository financial institution if such entity maintains its principal place of business or a branch office in this State.*

*2. A real estate investment trust, as that term is defined in 26 U.S.C. § 856(a), unless the business conducted by the trust in this State is not subject to supervision by the appropriate regulatory body of a jurisdiction outside of this State.*

*3. Any trustee of an employee benefit plan, as that term is defined in 29 U.S.C. § 1002(3), who makes a residential mortgage loan directly from money in the plan.*

*4. An attorney who is licensed in this State and who does not engage in the business of, or otherwise hold himself or herself out as being able to provide services related to, a mortgage servicer, if the activities of the attorney are directly incidental to the representation of a client.*

*5. A person performing any act pursuant to a court order.*

*6. A federal or state agency or a political subdivision of this State, including, without limitation, the Public Employees' Retirement System.*

*7. A nonprofit organization that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).*

*8. A mortgage servicer that, in the aggregate with any affiliates, services not more than 10 residential mortgage loans in this State during a calendar year.*

*9. A person licensed pursuant to the provisions of chapter 645B, 645E or 675 of NRS who is collecting payments on a mortgage loan or servicing one or more mortgage loans made or arranged by the person under his or her license.*

**Sec. 87.** NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.065, inclusive, **and section 86.2 of this act** have the meanings ascribed to them in those sections.

**Sec. 88.** NRS 645F.160 is hereby amended to read as follows:

645F.160 The Commissioner shall not, either directly or indirectly, be interested in any *mortgage servicer*, escrow agency, mortgage broker or mortgage banker to which *this chapter and* chapters 645A, 645B and 645E of NRS apply, nor engage in business as a personal loan broker.

**Sec. 89.** NRS 645F.180 is hereby amended to read as follows:

645F.180 1. The Commissioner may appoint deputy commissioners of mortgage lending, examiners, assistants, clerks, stenographers and other employees necessary to assist the Commissioner in the performance of his or her duties pursuant to this chapter, chapters 645A, 645B and 645E of NRS or any other law. These employees shall perform such duties as are assigned to them by the Commissioner.

2. The Commissioner may employ or contract with a certified public accountant to review and conduct independent audits and examinations of escrow agencies, mortgage brokers, *mortgage servicers* and mortgage bankers. The Commissioner shall levy an assessment upon each licensed escrow agency, mortgage broker, *mortgage servicer* and mortgage banker to cover all the costs related to the employment of or the contract with the certified public accountant and the performance of the audits and examinations.

3. Assessments collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury for deposit to the Account for Mortgage Lending created by NRS 645F.270 and accounted for separately. The Commissioner shall use the money for the purposes specified in subsection 2.

**Sec. 90.** (Deleted by amendment.)

**Sec. 91.** NRS 645F.267 is hereby amended to read as follows:

645F.267 1. A mortgage agent, mortgage banker, ~~or~~ mortgage broker *or mortgage servicer* or an employee of a mortgage banker, ~~or~~ mortgage broker *or mortgage servicer* is not required to register or renew with the Registry, or provide reports of financial condition to the Registry, if the mortgage agent, mortgage banker, mortgage broker *or mortgage servicer* or employee:

(a) Is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and

(b) Is not required to register pursuant to the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. A mortgage agent, mortgage banker, ~~or~~ mortgage broker *or mortgage servicer* or an employee of a mortgage banker, ~~or~~ mortgage broker *or mortgage servicer* who, pursuant to subsection 1, is not required to register or renew with the Registry and who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and any regulations adopted pursuant thereto.

3. As used in this section, “residential mortgage loan originator” has the meaning ascribed to it in NRS 645B.01325.

**Sec. 92.** NRS 645F.280 is hereby amended to read as follows:

645F.280 1. The Commissioner shall establish by regulation rates to be paid by all persons licensed by the Commissioner ~~for the Division~~ for supervision and examinations by the Commissioner or the Division.

2. In establishing a rate *for examinations* pursuant to subsection 1, the Commissioner shall consider:

- (a) The complexity of the various examinations to which the rate applies;
- (b) The skill required to conduct the examinations;
- (c) The expenses associated with conducting the examination and preparing a report; and
- (d) Any other factors the Commissioner deems relevant.

**Sec. 93.** 645F.293 is hereby amended to read as follows:

645F.293 1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

- (a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and
- (b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

3. The regulations must not require a mortgage agent, mortgage banker, ~~for~~ mortgage broker *or mortgage servicer* or an employee of a mortgage banker, ~~for~~ mortgage broker *or mortgage servicer* to register with the Registry if the mortgage agent, mortgage banker, mortgage broker, *mortgage servicer* or employee is exempt from registration pursuant to subsection 1 of NRS 645F.267.

**Sec. 94.** NRS 645H.040 is hereby amended to read as follows:

645H.040 “Asset management company” means a person, limited-liability company, partnership, association or corporation which, for compensation and pursuant to a contractual agreement, power of attorney or other legal authorization, engages in asset management on behalf of:

- 1. A bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, credit union, thrift company or savings and loan association, or any subsidiary thereof which is authorized to transact business in this State;
- 2. A mortgage holding entity chartered by Congress; or
- 3. A federal, state or local governmental entity.

**Sec. 95.** NRS 645H.060 is hereby amended to read as follows:

645H.060 “Client” means:

- 1. A bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, credit union, thrift company or

savings and loan association, or any subsidiary thereof that is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or

3. A federal, state or local governmental entity,

↪ for whom an asset management company provides asset management.

**Sec. 96.** NRS 645H.160 is hereby amended to read as follows:

645H.160 The provisions of this chapter do not apply to:

1. A person who is a regular, full-time employee of a bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, credit union, thrift company or savings and loan association, or any subsidiary thereof.

2. A person who takes possession of property from a defendant in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.

**Sec. 97.** NRS 40.750 is hereby amended to read as follows:

40.750 1. As used in this section, “financial institution” means a bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, credit union, thrift company or savings and loan association, or any subsidiary or affiliate of a bank, mortgage broker, mortgage banker, *mortgage servicer*, credit union, thrift company or savings and loan association, which is authorized to transact business in this State and which makes or acquires, in whole or in part, any loan of the kind described in subsection 2.

2. Except as otherwise provided in subsection 5, a person who, for the purpose of obtaining a loan secured by a lien on real property, knowingly conceals a material fact, or makes a false statement concerning a material fact knowing that the statement is false, is liable to any financial institution or other lender which relied upon the absence of that concealed fact or on that false statement for any damages it sustains because of the fraud.

3. In addition to its actual damages, a financial institution or other lender may recover exemplary or punitive damages in an amount not to exceed 50 percent of the actual damages awarded.

4. The cause of action provided by this section:

(a) Is not, for the purposes of NRS 40.430, an action for the recovery of any debt or an action for the enforcement of any right secured by mortgage or lien upon real estate.

(b) Is in addition to and not in substitution for any right of foreclosure existing in favor of the financial institution or other lender. Any recovery pursuant to this section does not limit the amount of a judgment awarded pursuant to NRS 40.459, but the financial institution or other lender is not entitled to recover actual damages more than once for the same loss.

5. The provisions of this section do not apply to any loan which is secured by a lien on real property used for residential purposes if:

(a) The residence is a single-family dwelling occupied by the person obtaining the loan, as represented by the person in connection with the person's application for the loan; and

(b) The loan is for the principal amount of \$150,000 or less.

**Sec. 98.** NRS 205.372 is hereby amended to read as follows:

205.372 1. A person who is a participant in a mortgage lending transaction and who:

(a) Knowingly makes a false statement or misrepresentation concerning a material fact or knowingly conceals or fails to disclose a material fact;

(b) Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or knowingly uses or facilitates the use of another person's concealment or failure to disclose a material fact;

(c) Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);

(d) Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or

(e) Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,

↪ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is guilty of a category B felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than \$50,000, or by both fine and imprisonment.

3. Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.

4. Except as otherwise provided in this subsection, if a lender or any agent of the lender is convicted of the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction with regard to which the fraud was committed may be rescinded by the borrower within 6 months after the date of the conviction if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction may not be rescinded pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General may investigate and prosecute a violation of this section.



6. In addition to the criminal penalties imposed for a violation of this section, any person who violates this section is subject to a civil penalty of not more than \$5,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.

7. The owner or holder of the beneficial interest in real property which is the subject of mortgage lending fraud may bring a civil action in the district court in and for the county in which the real property is located to recover any damages suffered by the owner or holder of the beneficial interest plus reasonable attorney's fees and costs.

8. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

- (1) The solicitation of a person to make or obtain the loan;
- (2) The representation or offer to represent another person to make or obtain the loan;
- (3) The negotiation of the terms of the loan;
- (4) The provision of services in connection with the loan; and
- (5) The execution of any document in connection with making or obtaining the loan.

(c) "Participant in a mortgage lending transaction" includes, without limitation:

- (1) A borrower as defined in NRS 598D.020;
- (2) An escrow agent as defined in NRS 645A.010;
- (3) A foreclosure consultant as defined in NRS 645F.320;
- (4) A foreclosure purchaser as defined in NRS 645F.330;
- (5) An investor as defined in NRS 645B.0121;
- (6) A lender as defined in NRS 598D.050;
- (7) A loan modification consultant as defined in NRS 645F.365;
- (8) A mortgage agent as defined in NRS 645B.0125;
- (9) A mortgage banker as defined in NRS 645E.100; ~~and~~
- (10) A mortgage broker as defined in NRS 645B.0127 ~~[-]~~; *and*
- (11) A mortgage servicer as defined in section 86.2 of this act.**

(d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar purposes, results, accomplices,

victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

**Sec. 99.** (Deleted by amendment.)

**Sec. 100.** NRS 675.035 is hereby amended to read as follows:

675.035 The provisions of this chapter apply to any person who:

1. Makes installment loans that are not subject to regulation pursuant to chapter 604A of NRS;

2. Is an affiliate, subsidiary or holding company of a bank, national banking association, savings bank, trust company, savings and loan association, credit union, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, thrift company or insurance company; and

3. Seeks to evade its application by any device, subterfuge or pretense, including, without limitation:

(a) Calling a loan by any other name;

(b) Using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or

(c) Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 675.040, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a material economic interest in the revenues generated by the loan.

**Sec. 101.** (Deleted by amendment.)

**Sec. 101.3. NRS 677.241 is hereby amended to read as follows:**

677.241 1. Subject to the prior approval of the Commissioner, a licensee may, by a majority vote of its board of directors:

~~1.1~~ (a) Enter into a contract, incur an obligation and perform other acts necessary to obtain a membership or other benefit that is available to a thrift company or its customers, stockholders, conservators, receivers or liquidators pursuant to the provisions of:

~~(a)~~ (1) The Federal Deposit Insurance Act, ~~12~~ 12 U.S.C. §§ 1811 et seq.

~~1.2~~ or

~~(b)~~

(2) The National Housing Act, ~~12~~ 12 U.S.C. §§ 1701 to 1743, inclusive

~~1.3~~

~~2.1~~ ; or

(3) A contract for the insurance of deposits that is issued by a private insurer and approved by the Commissioner and the Commissioner of Insurance.

(b) Subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation.

2. The Commissioner shall adopt regulations prescribing the requirements that must be complied with before a contract issued pursuant

to subparagraph (3) of paragraph (a) of subsection 1 will be approved by the Commissioner.

**Sec. 101.7. NRS 677.247 is hereby amended to read as follows:**

677.247 1. ~~{Except as otherwise provided in subsection 2, an}~~ An applicant for an authorization to engage in the business regulated pursuant to this chapter must obtain:

(a) The insurance of deposits provided pursuant to the provisions of the Federal Deposit Insurance Act, ~~{42 U.S.C. §§ 1811 et seq. ; or}~~

(b) The insurance of deposits provided pursuant to the provisions of the National Housing Act, ~~{42 U.S.C. §§ 1701 to 1743, inclusive.}~~

~~2. A person who:~~

~~(a) Is licensed pursuant to this chapter before October 1, 1997; and~~

~~(b) Has not obtained the insurance of deposits provided in subsection 1, may obtain a ; or~~

(c) A contract for the insurance of deposits that is issued by a private insurer ~~{The contract must be}~~ and approved by the Commissioner and the Commissioner of Insurance.

~~{3}~~ 2. The Commissioner shall adopt regulations prescribing the requirements that must be complied with before a contract issued pursuant to paragraph (c) of subsection ~~{2}~~ 1 will be approved by ~~{him or her}~~ the Commissioner.

**Sec. 102.** NRS 645A.210 and 645F.265 are hereby repealed.

**Sec. 103.** ~~{This act becomes effective:~~

1. ~~{Upon}~~ This section and sections 101.3 and 101.7 of this act become effective upon passage and approval.

2. Sections 1 to 101, inclusive, and section 102 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

~~{2}~~ (b) On January 1, 2016, for all other purposes.

#### TEXT OF REPEALED SECTIONS

**645A.210 Unlawful to engage in escrow business without license.** It is unlawful for any person, unless exempted under NRS 645A.015, to engage in or carry on, or hold himself or herself out as engaging in or carrying on, the escrow business or act in the capacity of an escrow agent or agency without first obtaining a license as an escrow agent or agency.

**645F.265 Registration of certain persons and institutions engaged in business of servicing mortgage loans required.** A person or institution engaged in the business of servicing mortgage loans that intends to conduct business in this State for the purpose of servicing mortgage loans secured by a lien on real property located in this State shall register with the Commissioner on a form prescribed by the Commissioner. The form must:

1. Identify the state in which the institution is domiciled;
2. Identify the principal place of business of the institution; and
3. Provide such other information as the Commissioner may require.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Assembly Bill 480, as amended, provides for licensure and regulation of out-of-state wholesale lenders, mortgage brokers, and mortgage bankers and requires the Commissioner of Mortgage Lending to prescribe by regulation the requirements for licensing, regulation, and discipline of mortgage servicers. The bill also makes various changes to the regulation of escrow agents and escrow agencies and increases mortgage broker and mortgage banker branch office origination fees, issuance of license fees, and mortgage agent change in association fees.

Assembly Bill 480, as amended, also allows thrift companies to contract for the insurance of deposits issued by a private insurer and provides for the Commissioner of the Division of Financial Institutions under the Department of Business and Industry to adopt regulations prescribing the contract requirements.

The bill becomes effective upon passage and approval for purposes of adopting regulations and performing the preparatory administrative tasks that are necessary to carry out the provisions of the bill upon passage and approval for sections 101.3 and 101.7 and on January 1, 2016, for all other purposes.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

#### UNFINISHED BUSINESS

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 83, 121, 128, 141, 152, 205, 206, 242, 248, 307, 321, 385, 437, 451, 467; Assembly Joint Resolution No. 8; Senate Bills Nos. 6, 15, 58, 67, 68, 110, 138, 148, 153, 160, 172, 194, 224, 233, 239, 250, 261, 262, 273, 305, 327, 330, 370, 404, 442, 458, 477.

#### RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Hansen moved that the Assembly recede from its action on Senate Bill No. 225.

Motion carried.

Assemblyman Hansen moved that the Assembly do not recede from its action on Senate Bill No. 348, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Hansen.

Motion carried.

#### APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Hansen, O'Neill, and Neal as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 348.

## REMARKS FROM THE FLOOR

Assemblyman Stewart requested that the following Proclamation be entered in the Journal.

**PROCLAMATION**

WHEREAS, Jack Lund Schofield was born in Douglas, Arizona, on April 25, 1923, and moved to Las Vegas, Nevada in 1937; and

WHEREAS, In 1941, he graduated from Las Vegas High School, became the State of Nevada's Golden Gloves welterweight boxing champion, and married his sweetheart Alene Earl; and

WHEREAS, Heeding the call of his country, Jack admirably served in the United States Armed Forces during World War II as a B-25H Mitchell combat bomber pilot flying 44 missions as a member of the renowned and iconic Flying Tigers, and he also flew with distinction during the Korean Conflict; and

WHEREAS, Jack's lifelong affinity for education saw him earn a bachelor of science degree in zoology from the University of Utah, a master's degree in education from the University of Nevada, Reno, and a doctorate in education from the University of Nevada, Las Vegas; and

WHEREAS, During his professional career as an educator, Jack served tirelessly for over 40 years in the Clark County School District as a teacher, coach, and administrator, and his lifetime of service and dedication to southern Nevada's students and schools was recognized with the naming of Jack Lund Schofield Middle School in his honor; and

WHEREAS, In November 1970, Jack was elected to the State Assembly and served two terms totaling four years until he was elected to the State Senate in November 1974, where he served one term of four years; and

WHEREAS, Jack's elected service in the Nevada Legislature was marked by many worthwhile and noteworthy accomplishments, especially in the field of education, by his sponsorship of important bills, his service as committee chair, and his leadership on veterans' issues, which was the catalyst for the construction of the Nevada State Veterans Home in Boulder City, Nevada; and

WHEREAS, After holding elected office in the Nevada Legislature and continuing his passion for education, Jack was subsequently elected to the Nevada System of Higher Education Board of Regents and served three terms totaling 12 years; and

WHEREAS, Jack Lund Schofield, a man of strong and enduring faith, passed away and received his final reward on March 13, 2015, now, therefore, be it

PROCLAIMED, That Jack Lund Schofield will always be fondly remembered for a life well lived and a lifetime of achievement, dedication, and service as an educator, State legislator, university regent, boxing champion, war hero, and veteran; and be it further

PROCLAIMED, That of all his numerous accomplishments, he was most proud and should be affectionately remembered as a family man, husband, father of six, and grandfather and great grandfather many times over, and his spirit and model of exemplary service will live on through them forever.

DATED this 21st day of May, 2015.

LYNN D. STEWART  
*Nevada State Assemblyman*

JAMES OHRENSCHALL  
*Nevada State Assemblyman*

## GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Jacob McLemore.

On request of Assemblyman Araujo, the privilege of the floor of the Assembly Chamber for this day was extended to Sandra Jauregui.

On request of Assemblyman Flores, the privilege of the floor of the Assembly Chamber for this day was extended to the following students,

chaperones, and teachers from Sandy Searles Miller Elementary School: Dunnunique Ahmad, Ava Andaya Giron, Leandro Araiza, Jacob Bacigalupi, Akianna Bailey, Antonio Barraza, Srija Bhowmik, Andrew Birt, Monica Bradley, Nicholas Briceno, Drew Campbell, Cailyn Campbell, Valeria Carillo Alvarez, Covin Carlson, Noel Cortez Salva, Vivianna Crawford Abeita, Foster Creque, Jordan Crossman, Jhonny Cruz-Salva, Enna Dishaw, Makayla D'Silva, Ramon Esquivel Garcia, Emiliano Estrada-Redes, Elian Estrada-Rubio, Kayla Fieldman, Maya Gonzalez, Christopher Grijalva Enriquez, Canyon Gronna, Alan Guerrero-Salazar, Andy Guerrero-Salazar, Aaron Gustafson, Anthony Gutierrez Rodriguez, Cassidy Haney, Amber Hebbard, Alice Hermosillo, Jacob Hernandez, Dulce Hernandez, Mayling Hernandez, Matthew Howell, Lisa Hypes, Ryan Jensen, Jazmin Juarez, Sage Keenan, Ian Lazo, Katherine Luna-Lugo, Kaylie Marenco, Angel Marroquin, Jesse Martinez, Michael Martinez-Lee, Jayne Mendoza, Courtney Meyer, Lilana Mihaere, Nadia Miranda, Mateo Montez, Anthony Monti, Angelina Mora, Mariah Moser, Amiko Nkwethat, Michelle Nunez-Chavez, Caitlyn Olson, Jayson Pablo, Omar Padilla-Gomez, Anthony Paske, Faith Pickett, Zayda Ramirez, Derek Ramos, Krystalynne Raublot, Joseph Reavis, Trinty Regnauld, Jose Renteria-Lopez, Rodrigo Rios, Yoselin Salvador Salva, Daniel Sanchez, Karina Sanchez, Nancy Sanchez Garcia, Mariana Sarabia Hernandez, Aaron Segal, Malayiah Serna, Sonya Sosa Robles, Tienna Sprinkle-Blakney, Anthony Stanulis, Zoe Swift, Cheyenne Swinton, Eva Ulloa, Lalia Vazquez, Pedro Vidales-Lara, Zion Wandick, Crystal Warren, May Wescott, Krystal Williams-Leuma, Lauren Wolfe, and Daniel Wright.

On request of Assemblyman Oscarson, the privilege of the floor of the Assembly Chamber for this day was extended to Gary Olsen, Andrea Jullerat-Olvera, and Thom Collins.

Assemblyman Hansen moved that the Assembly adjourn until Saturday, May 30, 2015, at 9 a.m.

Motion carried.

Assembly adjourned at 4:39 p.m.

Approved:

JOHN HAMBRICK  
*Speaker of the Assembly*

Attest: SUSAN FURLONG

*Chief Clerk of the Assembly*