

Hazardous Materials and Emergency Response



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HAZARDOUS MATERIALS
AND
EMERGENCY RESPONSE

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SUMMARY OF RECOMMENDATIONS

This summary represents the subcommittee's recommendations to the 67th Session of the Nevada Legislature. These recommendations are based upon suggestions which were presented in public hearings and written communications to the subcommittee. They reflect the experience and research of subcommittee members, staff research, and the testimony of concerned citizens, the business community, and representatives of various State and local agencies involved with emergency response or hazardous materials regulation.

The subcommittee recommends:

POLICY STATEMENT

1. Include in the final report a statement expressing the subcommittee's conclusion that the State must encourage a "partnership" between State and local entities and between government and business, in order to protect the environment, ensure employee and public safety, and still foster economic development.

CONSOLIDATION OF FEES, REPORTING, AND REGULATION

2. Include in the final report a statement expressing the subcommittee's support for the consolidation of similar State hazardous materials and other environmental fees and reporting requirements.
3.
 - a. Designate the State Emergency Response Commission as the State agency responsible for the coordination of all interagency efforts associated with consolidated fee collection, uniform regulations, and standardized reporting forms.
 - b. Direct those State and local agencies involved in hazardous materials management, as coordinated by the State Emergency Response Commission, whenever appropriate, to:
 - (1) Cooperate in eliminating duplication, conflict, or inconsistency in regulations;
 - (2) Review forms for clarity and ease of completion, and revise as necessary;

- (3) Review and simplify or expand instructions associated with the forms as necessary;
- (4) Cooperate, whenever possible, in the development of uniform reporting formats;
- (5) Distribute those reports related to emergency response to the appropriate local agencies in a timely manner; and
- (6) Consolidate, whenever possible, the collection of fees.

(BDR 40-365)

- 4. a. Designate the Department of Taxation as the State agency charged with the collection of the following fees and their respective reports:
 - (1) Fees authorized under *Nevada Revised Statutes* 477.045, currently collected by the State Fire Marshal Division in the Department of Commerce;
 - (2) Fees authorized under NRS 459.744 and NRS 459.746, collected by the State Emergency Response Commission; and
 - (3) Fees authorized under NRS 459.3824, collected by the Division of Environmental Protection in the State Department of Conservation and Natural Resources.
- b. Direct the Department of Taxation to consult with the State Emergency Response Commission to design a system for the consolidation of collection of other hazardous materials fees, except for hazardous waste fees, and to report its findings and recommendations to the 1995 Legislature.

(BDR 40-364)

- 5. Direct a letter to the Division of Environmental Protection requesting that staff of the agency:
 - a. Review regulations governing hazardous and solid waste reporting and fees;
 - b. Devise a proposed system to consolidate and streamline those fees and reports; and

- c. Report its findings and recommendations to the 1993 Legislature.
6. Amend NRS 706.441 to delete the authority and duty of the Public Service Commission of Nevada to issue a permit for the transport of radioactive waste, and require the Nevada Highway Patrol Division in the Department of Motor Vehicles and Public Safety to notify the commission prior to the issuance of any permits issued for the transport of radioactive waste. (BDR 40-363)
7. Recommend to the Nevada Legislature's Legislative Commission that it appoint a committee to study duplications between Senate Bill 641 of the 1991 Legislative Session (Chapter 608, *Statutes of Nevada* 1991, pages 1994-2011) and related Federal legislation.

INSPECTION AND FINES

8. Require any agency responsible for the enforcement of regulations dealing with hazardous materials to issue a citation, instead of a fine, for a first offense for failure to comply with a regulation, unless otherwise precluded by Federal law or Nevada's federally approved State plan. This requirement would not affect an agency's ability to take other appropriate action in an emergency or where there is an imminent threat of danger to person or property. (BDR 40-362)
9. Allow a Local Emergency Planning Committee to authorize a representative to enter a facility, if it deems such entry necessary to carry out its duties under Public Law 99-499:
 - a. During regular operating hours; or
 - b. At any time there is reason to believe a danger to public health and safety exists from hazardous materials at that facility or an actual emergency has occurred,

unless such entry would pose a threat to the health and safety of facility employees.

(BDR 40-361)

INFORMATIONAL PROGRAMS

10. If funding is available, require the State Emergency Response Commission to develop informational programs for the public and businesses regarding hazardous materials reporting requirements, related regulations, the role of Local Emergency Planning Committees, and "community right-to-know" provisions of Federal and State laws. (BDR 40-360)
11. Appropriate \$5,000 in each year of the next biennium to the State Fire Marshal Division for the establishment and operation of a toll-free telephone line for businesses to obtain information concerning hazardous materials regulations and for emergency response agencies to inquire about training requirements and programs. (BDR S-359)
12. Direct the State Fire Marshal Division to cooperate with local fire departments to develop "quick reference" model guides for first responders, which:
 - a. Provide information on handling the first, critical moments of an emergency;
 - b. May be distributed to local governments, responders, and students enrolled in hazardous materials training courses; and
 - c. Should be considered part of a first responder's equipment.(BDR 40-357)

INFORMATION MANAGEMENT AND EMERGENCY COMMUNICATIONS

13. Include in the final report a statement expressing the subcommittee's conclusion that the Division of Emergency Management in the Department of the Military should consult and cooperate with State and local agencies concerning the implementation of Project Oasis, the computerized emergency management information system being implemented by the division.
14. Create the State Emergency Operations Center, within the Division of Emergency Management, as a 24-hour point of emergency notification, and define the duties of the center to include:

- a. Maintenance of a 24-hour emergency notification number;
- b. Notification of an incident to all appropriate Federal, State and local entities;
- c. Maintenance of a written or recorded history of an incident;
- d. Coordination of the development of a post-incident investigation form;
- e. Maintenance of a database of incident information; and
- f. Provision for other agencies' access to incident information.

(BDR 36-358)

15. a. Require:

- (1) The first local or State entity responding to or aware of a spill, accident, or emergency situation to call the local 911 emergency number and then notify the Division of Emergency Management as soon as possible following awareness of an accident or existence of an emergency;
- (2) The Division of Emergency Management to consult with Federal and State agencies and local entities in the development of a list of subsequent emergency notifications to be made by the division following its notification of an emergency; and
- (3) All those listed on the Division of Emergency Management's subsequent emergency notification list to report any changes in telephone numbers or other information within 10 days to the division.

b. Require:

- (1) The lead agency investigating an emergency involving hazardous materials to complete a post-incident investigation form, as developed and supplied by the Division of Emergency

Management, and submit the form to the division within 30 days of the incident, or as soon as possible thereafter; and

- (2) The Division of Emergency Management to maintain a database, compiled from post-incident investigation forms, and to produce annual incident reports for distribution to State and local agencies involved in emergency response.

(BDR 36-358)

16. Amend NRS 459.715 to designate the Nevada Highway Patrol Division repository as the sole repository for information gathered pursuant to Public Law 99-499.
(BDR 40-356)

17. Create a State Board of Information Management, consisting of 11 members appointed by the Governor; and dissolve the State Communications Board in the Department of Motor Vehicles and Public Safety, the Advisory Board on Telecommunications in the Department of General Services, and the Advisory Committee for Data Processing in the Department of Data Processing.

Provide that the board shall assume the powers and duties of the dissolved entities and require the Coordinator of Communications in the Department of Motor Vehicles and Public Safety, the Director of the Department of General Services and the Director of the Department of Data Processing to execute and enforce the decisions of the board.

(BDR 18-381)

18. Direct the State Board of Information Management to:
 - a. Conduct a study of the existing equipment and software of State and local agencies involved in hazardous materials management;
 - b. Conduct a study of the information needs of State and local agencies involved in hazardous materials management, including emergency responders;
 - c. Develop proposals to achieve the following goals and report its findings and recommendations to the 1995 Legislature:

- (1) Implementation of a system which would allow hazardous materials information to be sent, received, and stored to or from any State or local agency with a need for such information;
- (2) Creation of a single hazardous materials information repository and communication network accessible to all first responders in the State; and
- (3) Improvement of public access of hazardous materials information.

(BDR 18-381)

EMERGENCY PLANS

19. Require all State agencies to have an emergency operations plan coordinated and reviewed by the Division of Emergency Management, to submit plans no later than July 1, 1994, and to update them a minimum of every 3 years thereafter. (BDR 36-380)
20. Amend Chapter 414 of NRS, titled "Emergency Management," to clarify that "emergency management" includes a comprehensive program of activities, other than those for which military forces are primarily responsible, relating to emergencies of any kind, whether or not due to natural causes. This comprehensive program of activities includes:
 - a. Mitigation, defined as efforts to eliminate or reduce the probability that an emergency will occur;
 - b. Preparation, defined as efforts to prepare State and local governmental agencies, private organizations and other persons to be able to respond appropriately when an emergency arises;
 - c. Response, defined as efforts to prevent and alleviate damage to persons and property during an emergency and to increase the probability that efforts for recovery will be effective; and

- d. Recovery, defined as efforts to return persons and property to at least as good a condition in which they were before the emergency arose.

(BDR 36-379)

NEEDS ASSESSMENT, RESOURCES AND RESPONSE

- 21. a. Direct the State Emergency Response Commission to conduct a survey of:
 - (1) The resources and needs of districts served by Local Emergency Planning Committees; and
 - (2) The feasibility and desirability of establishing mutual aid agreements between local entities who respond to emergencies,and to report the results of the survey and recommendations to the 1995 Legislature.
- b. Provide that the survey shall include an estimation or analysis of:
 - (1) Available equipment;
 - (2) Number of volunteer and paid emergency responders and their levels of training;
 - (3) Past and potential hazardous materials emergencies or risks;
 - (4) Minimum response capability necessary to mitigate risks (recognizing that containment, until special equipment or trained personnel arrive, may be the reasonable minimum);
 - (5) Areas which may benefit from mutual aid agreements; and
 - (6) Funds needed to achieve the minimum response capability, both with and without the establishment of mutual aid agreements.

(BDR R-378)

- 22. Direct the State Fire Marshal Division to cooperate with the State Emergency Response Commission, Local Emergency Planning Committees, existing hazardous materials teams, and other local emergency response agencies in conducting a study of regional response

teams and to report its findings and recommendations to the 1995 Legislature. Provide that the study shall address:

- a. Necessary equipment and vehicles;
- b. Number of personnel and levels of training which would be required;
- c. Area of response and locations of the response units;
- d. Number of teams necessary to cover the State, given the resources already available in some areas; and
- e. Estimated "startup" costs and yearly maintenance costs.

(BDR R-377)

TRANSPORTATION

23. Create a temporary task force to study the designation of "safe havens" for hazardous materials transporters. Include on the task force representatives of:

- a. Nevada's Department of Transportation;
- b. Nevada Highway Patrol Division;
- c. Division of Emergency Management;
- d. Public Service Commission of Nevada;
- e. Nevada Association of Counties;
- f. Nevada League of Cities; and
- g. The trucking industry.

Provide that the task force shall develop guidelines and model ordinances to assist local jurisdictions with the establishment of such havens.

(BDR R-376)

TRAINING

24. a. Require the State Fire Marshal Division to consult with:

- (1) The State Board of Fire Services, Department of Commerce;
- (2) The Division of Enforcement for Industrial Safety and Health, Department of Industrial Relations; and
- (3) Local fire departments,

to adopt regulations concerning the standards for certification of fire service training for both paid and volunteer firefighters, which satisfy United States Occupational Safety and Health standards.

b. Require the State Fire Marshal Division to adopt regulations establishing standards for the certification of hazardous materials responder training which satisfy:

- (1) Federal Occupational Safety and Health requirements under 29 *Code of Federal Regulations* 1910;
- (2) Environmental Protection Agency regulations relating to worker protection or hazardous waste operations under 40 *Code of Federal Regulations* 311; and
- (3) National Fire Protection Association standards relating to emergency response training, including Standards Nos. 471, 472, and 473.

Provide that the State Fire Marshal Division shall amend those regulations as necessary to incorporate the training curriculum for public sector responders to hazardous materials transportation incidents which is being developed by the United States Department of Transportation.

Further provide that, in the development of the regulations, the State Fire Marshal Division shall consult with appropriate State and local agencies, including but not limited to:

- (1) The Division of Enforcement for Industrial Safety and Health;

- (2) The Division of Emergency Management;
 - (3) The Nevada Highway Patrol Division;
 - (4) Local fire departments; and
 - (5) Local law enforcement agencies.
- c. Direct the Attorney General to assign a Deputy Attorney General to the State Fire Marshal Division to assist in the development of training standards.

(BDR 42-375)

25. Require the State Fire Marshal Division to:

- a. Conduct a study of the current training levels of rural firefighter, paid and volunteer;
- b. Consult rural fire departments regarding the level of training necessary for the area; and
- c. Propose alternative methods by which volunteers may satisfy the training standards adopted by the division, which may include but not be limited to:
 - (1) Home study for portions of the State Fire Marshal Division courses;
 - (2) Extending the time allowed for completion of courses; and
 - (3) In-state regional seminars.

(BDR S-374)

26. Require the State Fire Marshal Division to:

- a. Develop a mobile training team to provide hazardous materials training to volunteer firefighters at a location within the district they serve (the mobile training team shall consist of two inspector/instructors and one training officer);
- b. Establish a goal of training all volunteers to the first responder awareness level (as defined in the *Code of Federal Regulations*) during the first 18 months of the mobile training program;

- c. Establish goals for training volunteers at the first responder operational level in subsequent years; and
- d. Study the feasibility of mobile training for the remaining levels of hazardous materials response (hazardous materials technician, hazardous materials specialist, on-scene incident commander).

(BDR 42-373)

- 27. Include in the final report the subcommittee's conclusion that the State Fire Marshal Division and local fire departments should coordinate advanced hazardous materials training courses in order to minimize duplication of effort and expense.
- 28. Direct a letter from the subcommittee to members of Nevada's Congressional Delegation expressing its support for a training site for hazardous materials responders, to be developed and funded for the Western United States, with additional funding for the training of volunteers.
- 29. Include in the final report a statement expressing the subcommittee's support for a cooperative effort between the State Fire Marshal Division and the Community College of Southern Nevada, in Henderson, Nevada, to develop a course for public sector employees involved in emergency response.
- 30. Direct the Nevada Highway Patrol Division to develop a hazardous materials training program for law enforcement personnel and for instructors of law enforcement personnel which is accredited by the Peace Officers Standards and Training Committee in the Department of Motor Vehicles and Public Safety. (BDR 43-372)

OCCUPATIONAL SAFETY AND HEALTH

- 31. Prohibit the Division of Enforcement for Industrial Safety and Health from adopting any standards for occupational safety and health for firefighters and hazardous materials responders other than the standards set forth in the *Code of Federal Regulations*. (BDR 53-371)

DEPARTMENT OF PUBLIC SAFETY

32. Adopt a resolution directing the Nevada Legislature's Legislative Commission to conduct an interim study of the feasibility and desirability of creating a Department of Public Safety and to report its findings, along with any proposed legislation, to the 1995 Legislature. (BDR R-370)

LIABILITY

33. Extend immunity from civil liability for damages caused by a person in the provision of equipment, advice or other assistance in the mitigation or attempt to mitigate the effects of a discharge of hazardous materials, or in the prevention, cleanup or disposal of, or in the attempt to prevent, clean up or dispose of such a discharge, subject to the following conditions:
- a. Immunity would only apply to a person who is trained in the handling of hazardous materials;
 - b. Immunity would not apply unless the person was requested to provide the equipment, advice or other assistance by:
 - (1) The person responsible for the discharge;
 - (2) The Division of Emergency Management;
 - (3) The Division of Enforcement for Industrial Safety and Health;
 - (4) The Division of Environmental Protection;
 - (5) The Nevada Highway Patrol Division;
 - (6) The State Emergency Response Commission;
 - (7) The State Fire Marshal Division;
 - (8) A local fire department;
 - (9) A local agency for law enforcement; or
 - (10) A Local Emergency Planning Committee.
 - c. Immunity would not apply to a person:

- (1) Whose act or failure to act was a cause of the discharge; or
- (2) Who receives compensation other than:
 - (a) Reimbursement for his out-of-pocket expenses in provided the equipment, advice or other assistance; or
 - (b) Compensation from his regular employer for the period during which he is actually engaged in rendering the assistance or advice.
- d. Immunity would not apply to damages resulting from the person's gross negligence, or from his reckless, wanton or intentional misconduct.
- e. Immunity would apply only if the person has entered into a written agreement, either before or at the scene of the discharge, setting forth the terms and conditions of his participation.

(BDR 40-368)

- 34. Clarify that the State Emergency Response Commission and the Local Emergency Planning Committees are immune from civil liability for damages caused while carrying out their duties pursuant to Federal or State statutes.
(BDR 40-368)

RECOVERY AND CLEANUP

- 35. Amend NRS 459.500 to clarify that representatives of private business may offer free consultation and advice to public agencies regarding hazardous materials incidents without obtaining certification from the Division of Environmental Protection. (BDR 40-367)
- 36. a. Amend NRS 459.760 to:
 - (1) Include response among those expenses which a State agency may seek to recover from the person responsible for a spill or accident involving hazardous materials; and
 - (2) Direct the State Emergency Response Commission to advise the Nevada Legislature's Interim Finance Committee, or Legislature if in session, of the need for a supplemental appropriation to the responding agency, if the

costs of response cannot be recovered from the responsible person.

- b. Amend NRS 459.770 to include costs of response to a spill or accident among those costs for which a political subdivision is authorized to adopt an ordinance to seek recovery.
- c. As used in NRS 459.535, 459.755, 459.760 and 459.770, which relate to expenditures and recovery of expenditures for costs associated with hazardous materials incidents, define "response" as the efforts to assist in the mitigation or attempt to mitigate the effects of a discharge of hazardous materials, which may include but are not limited to:
 - (1) Fire prevention or control;
 - (2) Law enforcement;
 - (3) Containment of a spill or discharge;
 - (4) Cleanup or disposal of a spill or discharge;
 - (5) Decontamination of the area affected by a spill or discharge; and
 - (6) Post-incident investigation.

(BDR 40-366)

REPORT TO THE 67TH SESSION OF THE NEVADA LEGISLATURE
BY THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO STUDY LAWS RELATED TO EMERGENCIES
INVOLVING HAZARDOUS MATERIALS

I. INTRODUCTION

The 66th session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 79 (File No. 182, *Statutes of Nevada 1991*, pages 2641-2642) which directed the Legislative Commission to conduct an interim study of the laws related to emergencies involving hazardous materials. As specified in the resolution, the study was to include a review of:

1. The jurisdictions of all State and local agencies with responsibilities relating to the use, production, storage, transportation, and disposal of all types of hazardous materials;
2. The coordination among these agencies; and
3. The effectiveness of State and local systems for implementing Public Law 99-499 (the Superfund Amendments and Reauthorization Act of 1986).

The study also was to include an evaluation of the effectiveness of State and local systems in planning for and responding to emergencies involving hazardous materials.

The Legislative Commission appointed a subcommittee to conduct the study and compile recommendations. The following legislators were members of the subcommittee:

Assemblyman Joseph E. Dini, Jr., Chairman
Senator Leonard V. Nevin, Vice Chairman
Senator Lawrence E. Jacobsen
Senator Joseph M. Neal, Jr.
Assemblyman Bernard Anderson
Assemblyman Bradley I. Goetting
Assemblyman David E. Humke
Assemblywoman Sandra Krenzer
Assemblyman John L. Norton
Assemblyman Gaylyn J. Spriggs

Legislative Counsel Bureau staff services for the subcommittee were provided by Denice L. Miller of the

Research Division (principal staff), Steven J. Coburn and Ryan T. Campbell of the Legal Division (legal counsel), and Lyndl L. Payne of the Research Division (subcommittee secretary).

Testimony during the study's four meetings included the concerns and recommendations of State agencies involved with hazardous materials regulation, county and city response agencies, local emergency planning committees, businesses, and the public.

In addition, members toured the Stewart [Nevada] Hazardous Materials Training Center and the State Division of Emergency Management's Project Oasis, a computerized emergency management system. At the subcommittee's second meeting, members attended demonstrations by hazardous materials specialists of the Union Pacific Railroad and the City of Las Vegas Fire Department. During this 2-day meeting, the subcommittee also visited the Pioneer Chlor Alkali Company, Inc., in Henderson, Nevada.

The subcommittee adopted 36 recommendations addressing a broad range of issues involving regulation, fee collection, information management, planning, training, and response.

A great amount of data, much of it provided in exhibits that became part of the minutes of the subcommittee's meetings, was gathered during the course of the study. Only that information which bears directly upon the scope of the study and the subcommittee's recommendations is included in this report. All other supporting documents and minutes of meetings are on file in the Research Library of the Legislative Counsel Bureau.

II. BACKGROUND INFORMATION - FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS

Hazardous materials management in Nevada is governed by several Federal, State and local laws and ordinances. The regulatory scheme encompasses worker safety, interstate commerce and transportation, public safety, community "right-to-know," and environmental protection. Further, there are disparate definitions of hazardous materials, including hazardous waste, which differ among the several

acts and related regulations and may even vary within an act.

While the following section provides an overview of major Federal and State involvement, it does not include all laws or agencies which may cover some aspect of worker and public safety or environmental protection.

A. FEDERAL REGULATION

The Occupational Safety and Health Act of 1970

In 1970, the United States Congress enacted the Occupational Safety and Health Act (OSH Act) with the stated goal of assuring "safe and healthful working conditions" for every working man or woman. The Act was the first comprehensive, national legislation designed to prevent workplace injury.

The Federal Occupational Safety and Health Administration (OSHA) was created to administer the Act. The OSHA's responsibilities include establishing occupational safety and health standards and conducting workplace inspections to guarantee their enforcement.

The OSH Act also authorizes the individual states to develop and enforce their own occupational safety and health plans, subject to Federal approval. Nevada has such a plan, which adopts, by reference, all Federal occupational safety and health standards (Subsection 8 of *Nevada Revised Statutes* [NRS] 618.295). Thus, while Federal OSHA promulgates worker safety standards, the State's Division of Enforcement for Industrial Safety and Health (DEISH) in the Department of Industrial Relations (DIR) enforces them.

OSHA'S Hazard Communication Standard

Provisions of the OSH Act prescribe the use of labels or other appropriate forms of warning to ensure that workers are apprised of workplace hazards. In 1975, an OSHA advisory committee recommended more specific labeling requirements and the identification of those substances the agency deemed hazardous. It was not until 1983, however, that OSHA promulgated the Hazard Communication Standard. Initially, the standard applied only to the manufacturing sector, but in 1987, it was extended to nonmanufacturing industries as well.

The Hazard Communication Standard, as adopted in 29 *Code of Federal Regulations (CFR)* 1910.1200, requires the identification of workplace chemical hazards and the communication of this information to employees.

Chemical manufacturers and importers are the initial employers affected by the standard: they are required to perform a hazard analysis of each chemical substance which they produce or import. If the analysis indicates that the substance is hazardous, the manufacturer or importer prepares a Material Safety Data Sheet (MSDS), which must accompany shipments of the substance to other companies.

Employers who handle these hazardous materials, whether they are the initial chemical manufacturers or the facilities that use the substances, are directed to develop a comprehensive communication program, which includes:

- A written hazard communication program for the workplace, including a list of hazardous chemicals present;
- Making MSDSs available to employees; and
- An employee training program regarding hazards of chemicals and protective measures.

The Hazard Communication Standard defines "hazardous chemical" as any chemical which is a physical or health hazard. There is no list of these approximately 500,000 substances.

OSHA's Process Safety Management Rule

In 1984, an accidental release of methyl isocyanate at a chemical plant in Bhopal, India, resulted in more than 2,000 deaths. Following the incident, OSHA began an investigation of U.S. producers and users of methyl isocyanate.

The OSHA investigators determined that, while the chemical industry is subject to OSHA's general industry standards, these standards did not contain specific coverage for chemical process hazards, nor did they adequately address the potential for catastrophic releases of hazardous chemicals.

The agency continued to study the concern, and on July 17, 1990, published a proposed standard related to the management of hazards associated with processes using highly hazardous chemicals. The final rule, known as the Process Safety Management standard, was published in the February 2, 1991, issue of the *Federal Register*. The rule is adopted in 29 CFR 1910.119.

The Process Safety Management standard requires regulated facilities to compile written safety information regarding certain hazardous processes. After compiling the information, the employer must perform a process hazard analysis, conducted by a team with expertise in engineering and process operations, and then establish a system to address the team's findings and recommendations.

Under the standard, an employer must also establish and implement an emergency action plan for the entire plant, which includes procedures for handling small releases.

The Mine Safety and Health Act

The Federal Mine Safety and Health Act (MSHA) of 1977 amended and renamed the Federal Coal Mine Health and Safety Act of 1969. The Act directed the U.S. Secretary of Labor to develop mandatory health and safety standards for the protection of life and the prevention of injuries in coal and other mines (Title 30, *United States Code [USC]*, Section 311).

In language similar to that of the OSH Act, the Mine Safety and Health Act requires labeling or other appropriate warning to apprise mining industry employees of hazards to which they are exposed. In addition, the U.S. Secretary of Labor is required to develop health and safety standards related to toxic materials or harmful physical agents.

The Mine Safety and Health Administration also is in the process of developing its own "hazard communication standard." The standard may be promulgated in the Spring of 1993.

The Mine Safety and Health Act does not preclude state development of safety and health standards for the mining industry, unless the standards or laws are in conflict with the Act or related Federal standards (30 USC Section 955).

Supplemental or more stringent state standards are not considered to be in conflict.

The Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) was enacted in 1976 as an amendment to the Solid Waste Disposal Act of 1965. The Act's goals are:

- To protect public health and the environment from the potential dangers of hazardous waste;
- To conserve energy and natural resources;
- To minimize waste generation; and
- To manage waste in an environmentally sound manner.

Subtitle C of RCRA represents a comprehensive waste management system, from generation to disposal. The U.S. Environmental Protection Agency (USEPA) defines a substance as "hazardous waste" if it is toxic, corrosive, reactive, or ignitable, and if it can affect human health or damage the environment.

Subtitle C's management program includes a permitting system and a "tracking" system. Facilities that generate hazardous waste must obtain an operating permit issued by the USEPA or an authorized state agency. Hazardous waste generators also must report waste production and ensure proper disposal.

Amendments to RCRA in 1984 (the Hazardous and Solid Waste Amendments) addressed public concerns about waste disposal. These amendments require generators to implement waste minimization programs to reduce the volume of waste or its hazardous components.

The RCRA was originally a federally administered program. Presently, however, states are responsible for the Act's administration, while the USEPA oversees enforcement of state programs. In Nevada, the Division of Environmental Protection (DEP) in the State Department of Conservation and Natural Resources is charged with implementation of RCRA provisions (NRS 444.590).

CERCLA

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 addressed environmental and public health concerns generated by the discovery, in the late 1970s, of a large number of abandoned hazardous waste dumps. Popularly known as "Superfund," CERCLA was designed to identify sites in need of remediation, decontaminate those sites, and recover costs from the parties responsible for the dump or release.

The Act stipulates that releases of designated hazardous substances must be reported to the National Response Center (Section 103a). The CERCLA hazardous substances are listed in 40 CFR Part 302, Table 302.4.

SARA Title III

The Superfund Amendments and Reauthorization Act (SARA) of 1986, the first major revision of CERCLA, includes the Emergency Planning and Community Right-to-Know Act (Title III). Title III mandates the establishment of an emergency response commission in each state, the development of comprehensive emergency response plans, and the reporting of hazardous chemicals and releases.

The Act relies to some degree on the Hazard Communication Standard. It provides that every company which handles a "hazardous chemical," as defined by that standard, may be subject to Title III emergency release and chemical inventory reporting. Title III reporting includes:

- Emergency planning for accidents (Sections 301-303);
- Emergency notification of spills or releases (Section 304);
- Chemical inventory reporting (Sections 311 and 312); and
- Annual disclosure of routine and accidental toxic chemical releases (Section 313).

Section 302 requires a facility that stores an Extremely Hazardous Substance at or above its Threshold Planning Quantity to notify the State Emergency Response Commission (SERC) and the area Local Emergency Planning Committee

(LEPC) that the facility is subject to reporting requirements. (The USEPA list of chemicals identified as Extremely Hazardous Substances is found in 40 CFR Part 355.)

Under Section 303, a facility must also designate a coordinator to participate in local emergency planning efforts.

Section 304 mandates disclosure to the SERC and LEPC of a release of Extremely Hazardous Substances or the release of any of the substances designated as hazardous by CERCLA at or above a certain quantity. The section does not apply to any release that results in exposure solely to persons within the site on which a facility is located.

Sections 311 and 312 establish requirements for the reporting of chemical inventories to SERC, LEPCs and local fire departments.

Section 313 requires that owners or operators of certain "covered facilities" must submit annual reports to the USEPA and to the state concerning their releases of listed "toxic chemicals." The list of Section 313 toxic chemicals is found in 40 CFR Part 372.

Applicability and regulated chemicals vary among the sections of SARA Title III that require reporting. In addition, there are exemptions for certain situations, chemicals, and facilities. Regulations to implement the Act's provisions are found in 40 CFR Parts 350, 355, 370, and 372.

Clean Air Act

The Clean Air Act, enacted in 1964, is the major piece of Federal legislation governing air emissions. The Act establishes standards for air pollutants and requires facilities which generate and release these pollutants to comply with the standards.

While the Clean Air Act Amendments of 1970 increased Federal authority and responsibility, Section 107a still provides that each state has "primary authority" for maintaining its air quality. Nevada's approved State plan is administered by the Division of Environmental Protection.

The Clean Air Act Amendments of 1990 focused on risk management for certain substances, with the objective of protecting the community as well as the environment.

The 1990 amendments require the USEPA to promulgate a list of substances that can cause death, injury, or serious adverse impacts to human health and the environment. In developing the list of substances, USEPA is directed to consider the list of Extremely Hazardous Substances as defined in SARA Title III.

For any such substance present at a facility above the specified threshold quantity, owners or operators must prepare a risk management plan that includes a hazard assessment; a program for preventing releases; and a response program, which includes notifying emergency responders and the public.

HMTUSA

The Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA) strengthens the regulation of hazardous materials transportation. An earlier act, the Hazardous Materials Transportation Act of 1974, was perceived as lacking Federal enforcement. In addition, the original Act was criticized for not restricting hazardous traffic to designated routes.

Accordingly, HMTUSA establishes guidelines for the routing of all hazardous materials. States are to designate routes following Federal standards. The Act also provides for a new registration program for shippers of hazardous materials and for mandatory training in emergency response for employees of shippers and carriers of hazardous materials.

In addition, HMTUSA directs the United States Department of Transportation (USDOT) to promulgate rules for the improvement of placarding.

Finally, Section 22 of the Act establishes a working group of state and local representatives to develop uniform procedures for the registration and permitting of hazardous materials transporters.

Other Federal Legislation

The Toxic Substances Control Act (TSCA), enacted in 1976, requires that specific chemicals be tested and regulations to restrict their processing and use be implemented.

The Clean Water Act of 1977, which amended the earlier Federal Water Pollution Control Act, requires establishment of water quality standards. The Act's objectives include the elimination of toxic discharges, elimination of pollutant discharge in navigable waters, and protection of fish and wildlife.

The Safe Drinking Water Act, enacted in 1975, is designed to protect sources of drinking water.

Other Federal legislation related to the regulation of hazardous substances includes the Federal Railroad Safety Act and the Federal Environmental Pesticide Control Act.

B. STATE REGULATORY AND RESPONSE AGENCIES

Appendix B contains an outline which summarizes the involvement of various agencies, emergency response personnel, and businesses in hazardous materials management. Whenever possible, statutory authority is referenced. The agencies reviewed include:

State Department of Conservation and Natural Resources

The State's Division of Environmental Protection has primary responsibility for issues of environmental concern. In addition, the Divisions of Forestry and State Lands, also in the State Department of Conservation and Natural Resources, are involved in some aspects of hazardous materials management.

Within DEP, the Bureau of Waste Management regulates hazardous waste in the State. The bureau's responsibility goes beyond overseeing commercial disposal of hazardous waste. In the event of a spill of a hazardous "substance," the substance is considered to be a "waste" and thus becomes subject to the bureau's jurisdiction. The DEP is not a "response" agency, however. Rather, the division's efforts are directed to the decontamination or cleanup of a contaminated area.

The DEP's Bureau of Chemical Hazards Management was created in 1991 to implement provisions of Senate Bill 641 (Chapter 608, *Statutes of Nevada 1991*, pages 1994-2011). The bureau's activities represent the division's first involvement in regulation of hazardous substances, other than waste, prior to an incident or spill.

Other bureaus within DEP charged with environmental protection include the Bureau of Air Quality, the Bureau of Water Quality Planning, and the Bureau of Wastewater Treatment Service.

Department of Motor Vehicles and Public Safety

The Department of Motor Vehicles and Public Safety is authorized to adopt regulations concerning the transport of hazardous materials by motor vehicle. In addition, any person who transports certain hazardous materials is required to obtain a permit for such transport from the Nevada Highway Patrol Division (NHPD). Each vehicle used for transport is subject to inspection by the division.

The NHPD is also responsible for the maintenance of the State's hazardous materials repository as required under SARA Title III.

Finally, the NHPD participates in the investigation of accidents and in incident control, as appropriate.

State Fire Marshal Division

The State Fire Marshal Division (SFMD) in the Department of Commerce is empowered to enforce all laws governing, and adopt regulations relating to, fire prevention, combustibles, flammables, and fireworks. The division is also directed to establish a statewide training program for response to emergencies involving hazardous materials.

In addition, the SFMD investigates incidents and provides technical assistance to responders.

State Emergency Response Commission

The State Emergency Response Commission is the State agency created pursuant to, and empowered to carry out the provisions of, Public Law 99-499 (SARA). By law, the commission consists of not more than 25 members, appointed by

the Governor, representing State and local agencies, first responders, and business.

The SERC's responsibilities under SARA Title III include the collection and dissemination of information regarding hazardous materials in the State. The commission is authorized to assess fees to finance its services and regulatory activities. In Nevada, the SERC distributes approximately \$200,000 annually in grants to LEPCs.

Department of Industrial Relations

The DIR's Division of Enforcement for Industrial Safety and Health enforces occupational safety and health standards for facility and employee safety and emergency responders. These standards are adopted by reference from 29 CFR 1910.

The DIR's Division of Mine Inspection is authorized to adopt those regulations for mine safety and health which it deems necessary and which are consistent with the Federal Mine Safety and Health Act.

Public Service Commission of Nevada

The Public Service Commission of Nevada (PSCN) enforces certain provisions of State law related to the transport and handling of radioactive waste, as well as regulations regarding the transport of other hazardous waste.

The PSCN also cooperates with the USDOT and the Federal Railroad Administration to inspect railroad facilities for compliance with hazardous materials regulations.

Division of Emergency Management

The Division of Emergency Management (DEM) in the Department of the Military is involved in planning, reporting and coordination of incidents, and recovery efforts. The DEM also provides technical assistance and training.

Health Division

The Health Division of the Department of Human Resources (DHR) is the State radiation control agency. The division is involved in related planning, regulation, inspection, training, and technical assistance.

Other State Agencies

Other State agencies which deal with hazardous materials issues include the Departments of Agriculture, Transportation, and Wildlife, and the Office of the Governor.

C. LOCAL REGULATION AND RESPONSE

Local emergency management organizations across the State participate in planning and response efforts, as do local fire, police, and emergency medical services. In addition, various provisions of State law do not apply in certain counties. In these counties, local agencies (e.g., health districts and fire departments) may assume duties similar to those of their State counterparts.

The SARA mandates the designation of Local Emergency Planning Districts within the State. The SERC is directed to appoint the LEPCs, which cooperate with the SERC and local businesses to collect data on hazardous materials and to coordinate planning efforts.

III. THE 1991 LEGISLATIVE SESSION

The 1991 Nevada Legislature enacted several measures related to hazardous materials.

A. ASSEMBLY BILL 271

Assembly Bill 271 (Chapter 327) imposes a fee of \$6 per ton on hazardous waste received for disposal at a Nevada facility. Of this total, \$4.50 per ton supplements funds utilized by the SFMD to operate a training center for emergency response personnel. The remaining \$1.50 per ton provides funds for the PSCN to inspect train shipments of hazardous materials.

B. SENATE BILL 462

Senate Bill 462 (Chapter 417) gives statutory authority to the SERC, which has, in fact, existed for a number of years. The bill also authorizes the SERC to assess fees.

C. SENATE BILL 641

Senate Bill 641 (Chapter 608) requires the registration of certain facilities where hazardous substances are stored and handled in excess of specified quantities. The measure also mandates that an in-depth risk assessment of potential hazards be performed every 5 years for each regulated facility.

The DEP, which administers the program, is also authorized to assess fees to carry out the provisions of the bill.

D. ASSEMBLY CONCURRENT RESOLUTION NO. 79

Historical Background

On September 13, 1985, the Legislative Commission appointed a hazardous materials management committee to study chemical, toxic and low-level radioactive wastes in Nevada. Topics of study included an overview of Nevada's hazardous and low-level radioactive waste programs, the *State of Nevada Hazardous Materials Operation Support Plan*, transportation problems and regulations, local government concerns, and the emergency management program in southern Nevada.

The majority of the 18 recommendations adopted by the committee dealt with the transportation of hazardous materials. In addition, the committee recommended to increase funding for hazardous materials training and equipment and to urge the State to work with the Federal Government in the establishment of a Western regional training center located at Stewart, Nevada.

The 1987 Nevada Legislature enacted a number of important measures addressing critical issues associated with transportation, routing, permits and inspection, emergency response, and funding for hazardous materials programs.

Legislation during the 1989 session included bills to establish a statewide training program for response to spills of hazardous materials and related fires, to impose civil penalties for violations of the law or regulations relating to the transportation of hazardous waste, and to provide for the regulation of storage tanks for hazardous materials.

PEPCON and Pioneer Chlor Alkali Incidents

On the morning of May 4, 1988, a series of explosions rocked the Las Vegas Valley when ammonium perchlorate ignited at the Pacific Engineering and Production Company of Nevada (PEPCON) in Henderson. Several buildings on site were leveled, and the nearby Kidd marshmallow plant was destroyed. Windows in the area were shattered. Damage was reported as far away as 12 miles.

Two PEPCON employees died in the disaster. Hundreds of workers and area residents were injured and thousands evacuated.

Just over 3 years later, on May 6, 1991, a chlorine leak occurred at the Pioneer Chlor Alkali Company, Inc., near Henderson. Once again, area residents were evacuated and several hospitalized, while national, State and local attention was focused on the dangers of hazardous materials.

Adoption of A.C.R. 79

Two weeks after the Pioneer Chlor incident, A.C.R. 79 was introduced in the Nevada Legislature. The measure directed the Legislative Commission to conduct an interim study of State laws relating to emergencies which may result from the use, production, storage, transportation, and disposal of hazardous materials. The commission was further directed to report the results of the study and any recommended legislation to the 1993 Nevada Legislature. The present document provides a report of the activities and recommendations associated with this study.

IV. DISCUSSION OF ISSUES AND RECOMMENDATIONS

A. FEES, REPORTING REQUIREMENTS, AND REGULATION

General Policy

The management of hazardous materials in Nevada is governed by several Federal, State, and local laws or ordinances. Various industries, vital contributors to the State's economy, are affected by these laws.

Throughout the interim study, representatives of both industry and State agencies stressed the importance of business and government working together to reach certain common goals. Further, local and State administrators recognized a need for cooperation and coordination between the two levels of government. Thus, the subcommittee adopted the following recommendation:

- Include in the final report a statement expressing the subcommittee's conclusion that the State must encourage a "partnership" between State and local entities and between government and business, in order to protect the environment, ensure employee and public safety, and still foster economic development.

Consolidation of Fees and Reporting

Testimony during each of the subcommittee's four meetings indicated that regulations, reporting requirements, and fees of various State agencies may overlap or duplicate other requirements. One witness stated that it is even possible to violate one agency's regulation in complying with another's.

Representatives of the Nevada Mining Association, the Nevada Manufacturers Association, the Nevada Taxpayers Association, the Nevada Federation of Independent Business, and individual businesses expressed concern over the number and amount of fees required for the use or storage of hazardous materials.

Additional testimony revealed that the reports which accompany permit applications or payment of fees may be time-consuming and confusing, and they are not uniform. Further, it was argued that the number and complexity of the reports may cause a business to be unable or to choose not to comply with some reporting requirements.

Accordingly, the subcommittee adopted the following recommendation:

- Include in the final report a statement expressing the subcommittee's support for the consolidation of similar State hazardous materials and other environmental fees and reporting requirements.

In addition, the subcommittee approved a recommendation to:

- Designate the State Emergency Response Commission (SERC) as the State agency responsible for the coordination of all interagency efforts associated with consolidated fee collection, uniform regulations, and standardized reporting forms.

Direct those State and local agencies involved in hazardous materials management, as coordinated by the State Emergency Response Commission, whenever appropriate, to:

1. Cooperate in eliminating duplication, conflict, or inconsistency in regulations;
2. Review forms for clarity and ease of completion, and revise as necessary;
3. Review and simplify or expand instructions associated with the forms as necessary;
4. Cooperate, whenever possible, in the development of uniform reporting formats;
5. Distribute those reports related to emergency response to the appropriate local agencies in a timely manner; and
6. Consolidate, whenever possible, the collection of fees.

(BDR 40-365)

Some efforts toward consolidation have already begun. The State Emergency Response Commission, the Division of Emergency Management, the State Fire Marshal Division, and the Division of Environmental Protection have developed a "Combined Reporting Form." The form incorporates chemical inventory reporting required by Title III of the Superfund Amendments and Reauthorization Act, regulations of the SFMD, and Senate Bill 641. Agency personnel anticipate that the new form will improve compliance with Federal and State requirements.

There was no disagreement among those testifying before the subcommittee regarding the desirability of continuing the process of consolidation. However, the particular fees or reports to be combined, and the best method for doing so, were not apparent. Thus, the Chairman requested that State agency personnel and interested businesses work together to present recommendations for the consolidation of fee collection and reporting requirements.

The working group suggested that State agencies continue consolidation efforts already in place and that the Department of Taxation be designated the State agency responsible for the collection of certain fees and their respective reports. The group considered the Department of Taxation to be the appropriate agency because of its experience with collections and the handling of large amounts of data.

The group concluded that further consolidation should be studied and implemented, when possible, but that such efforts should proceed slowly, in order to build a rational and functional system.

Therefore, the subcommittee recommends:

- Designate the Department of Taxation as the State agency charged with the collection of the following fees and their respective reports:
 1. Fees authorized under *Nevada Revised Statutes* (NRS) 477.045, currently collected by the State Fire Marshal Division.
 2. Fees authorized under NRS 459.744 and 459.746, collected by the State Emergency Response Commission; and
 3. Fees authorized under NRS 459.3824, collected by the Division of Environmental Protection.

Direct the Department of Taxation to consult with the State Emergency Response Commission to design a system for the consolidation of collection of other hazardous materials fees, except for hazardous waste

fees, and to report its findings and recommendations to the 1995 Legislature.

(BDR 40-364)

Hazardous Waste

In a separate recommendation, the subcommittee decided to:

- Direct a letter to the Division of Environmental Protection requesting that staff of the agency:
 1. Review regulations governing hazardous and solid waste reporting and fees;
 2. Devise a proposed system to consolidate and streamline those fees and reports; and
 3. Report its findings and recommendations to the 1993 Legislature.

Transport of Radioactive Waste

Subcommittee members questioned the necessity of the Public Service Commission of Nevada's issuance of a permit for the transport of radioactive waste. Testimony from the PSCN suggested that the commission's permit may duplicate that required by the Nevada Highway Patrol Division. The PSCN further indicated that it would support elimination of duplication, provided that the commission's responsibility to determine, prior to the issuance of any permit, whether a carrier is "fit, willing, and able" was not impaired. Thus, the subcommittee recommends:

- Amend NRS 706.441 to delete the authority and duty of the Public Service Commission of Nevada to issue a permit for the transport of radioactive waste, and require the Nevada Highway Patrol Division to notify the commission prior to the issuance of any permits issued for the transport of radioactive waste.

(BDR 40-363)

Senate Bill 641 of the 1991 Legislative Session

The subcommittee considered a proposal to repeal S.B. 641. Enacted in 1991, this measure requires the registration and

regulation of facilities storing threshold quantities of certain highly hazardous substances.

Testimony from chemical manufacturers and distributors, the mining industry, and the Nevada Manufacturers Association emphasized the bill's similarity to the Federal Occupational Safety and Health Administration's (OSHA) Process Safety Management (PSM) standard.

Proponents of repeal stated that S.B. 641 duplicated the provisions of the PSM standard and thus constituted an additional "layer" of regulation. Further, various representatives of business stated that the fees assessed to carry out the provisions of S.B. 641 are excessive and unnecessary, given that compliance with the PSM standard is required by Federal law.

Additional testimony suggested that S.B. 641 fees, reporting requirements, and regulatory activities may affect a Nevada business's competitiveness. It was further argued that the legislation reduces the incentive for new business to locate in the State.

Speaking against repeal of S.B. 641, a representative of the United Steelworkers of America testified that the intent of S.B. 641 was to "preserve jobs" by making industry compatible with population areas and to protect the public from catastrophic releases of hazardous substances.

The representative further stated that:

- Senate Bill 641 ensures the public's right to know, while the PSM does not;
- Senate Bill 641 includes provisions for the the reporting of chemical handling;
- Enforcement of the PSM may be difficult or insufficient; and
- The PSM requires that an identified hazard be "addressed," while S.B. 641 "holds to a standard" a potentially hazardous situation in need of correction.

The Division of Enforcement for Industrial Safety and Health (DEISH) stated that enforcement of S.B. 641 would be "labor intensive" for the agency. Thus, if S.B. 641 were not

repealed, DEISH would pursue a "Memorandum of Understanding" with DEP to avoid duplication of effort. There might be some difficulties with such an agreement, however, since DEISH is prohibited from giving advance notice of an inspection.

A representative of DEP provided a comparison of S.B. 641 and the PSM standard, noting that the public information element is one difference between the State law and the Federal regulation. (See Appendix C.)

In addition, the agency reported that provisions of the Clean Air Act of 1990 require the U.S. States Environmental Protection Agency (USEPA) to adopt regulations for certain facilities to perform hazard assessments. The DEP was of the opinion that those facilities currently subject to S.B. 641 regulation would, in any event, be required to perform such assessments under the USEPA regulation. In order for the State (rather than the Federal EPA) to oversee the program, Nevada would have to adopt a regulation equivalent to the Federal standard.

Finally, the DEP observed that S.B. 641 mandates that the agency review various regulations and laws in order to identify and minimize duplications. The agency suggested that the subcommittee consider the formation of a committee composed of State agencies, the mining industry, and manufacturers, which would compare S.B. 641 with Federal regulations in order to propose amendments to the State law.

After considerable discussion, the subcommittee did not adopt the recommendation to repeal S.B. 641. However, the subcommittee did approve a motion to:

- Recommend to the Nevada Legislature's Legislative Commission that it appoint a committee to study duplications between Senate Bill 641 of the 1991 Legislative Session and related Federal legislation.

Later, specific action by the Legislative Commission on this particular recommendation was considered unnecessary, as the DEP indicated that it would undertake such a study.

B. INSPECTION AND FINES

In correspondence to the subcommittee, the Executive Director of the Nevada Taxpayers Association noted that:

With the increasing amount of environmental regulations being enacted at all levels of Government, many small businesses become aware of a regulation when they receive a fine for non-compliance with the regulation.

The subcommittee considered testimony that such fines for first offenses were unduly burdensome.

Thus, the subcommittee approved a recommendation to:

- Require any agency responsible for the enforcement of regulations dealing with hazardous materials to issue a citation, instead of a fine, for a first offense for failure to comply with a regulation, unless otherwise precluded by Federal law or Nevada's federally approved State plan. This requirement would not affect an agency's ability to take other appropriate action in an emergency or where there is an imminent threat of danger to person or property.

(BDR 40-362)

The subcommittee received a great deal of testimony regarding the public's right to know, facility safety plans, and the importance of obtaining complete chemical inventories. Discussion supported the desirability of on-site access to businesses which handle hazardous substances. The subcommittee, therefore, adopted the following recommendation:

- Allow a Local Emergency Planning Committee (LEPC) to authorize a representative to enter a facility, if it deems such entry necessary to carry out its duties under Public Law 99-499:
 - a. During regular operating hours; or
 - b. At any time there is reason to believe a danger to public health and safety exists from hazardous materials at that facility or an actual emergency has occurred,

unless such entry would pose a threat to the health and safety of facility employees.

(BDR 40-361)

C. INFORMATIONAL PROGRAMS

Representatives of LEPCs, the Nevada Taxpayers Association, and businesses discussed the number of Federal, State and local laws or regulations which govern the handling of hazardous materials.

Those testifying stated that many small businesses do not have the personnel necessary to keep aware of, and thus comply with, the various regulations. In addition, LEPC members reported that they are often uncertain of their responsibility and their authority with respect to SARA Title III.

Finally, testimony indicated that, with so many agencies involved, it is difficult for a business or a LEPC to know whom to consult when a question arises. Accordingly, the subcommittee adopted the following two recommendations:

- If funding is available, require the State Emergency Response Commission to develop informational programs for the public and businesses regarding hazardous materials reporting requirements, related regulations, the role of Local Emergency Planning Committees, and "community right-to-know" provisions of Federal and State laws.

(BDR 40-360)

- Appropriate \$5,000 in each year of the next biennium to the State Fire Marshal Division for the establishment and operation of a toll-free telephone line for businesses to obtain information concerning hazardous materials regulations and for emergency response agencies to inquire about training requirements and programs.

(BDR S-359)

The Emergency Response Coordinator for Lockheed Engineering and Sciences Company suggested that the subcommittee also consider the information needs of responders. While emphasizing that responders should recognize the limitations of their training and equipment, he proposed that the State develop "incident checklists," or standard operating

procedures, which "guide first responders through the first critical minutes of an incident."

During discussion, the Clark County Fire Department stated that it would support such quick reference guides, provided the State cooperate with the local responding agencies in their development. The Training Chief for the City of Sparks Fire Department stressed the importance of consistency, stating that the guides should be compatible with existing training materials.

The subcommittee approved the recommendation to:

- Direct the State Fire Marshal Division to cooperate with local fire departments to develop "quick reference" model guides for first responders, which:
 1. Provide information on handling the first, critical moments of an emergency;
 2. May be distributed to local governments, responders, and students enrolled in hazardous materials training courses; and
 3. Should be considered part of a first responder's equipment.

(BDR 40-357)

D. INFORMATION MANAGEMENT AND EMERGENCY COMMUNICATIONS

Overview

Improvement of information management and emergency communications was a particularly difficult, and frequently divisive, issue. The concerns discussed included:

- The duplication of effort and expense when several State and local agencies develop their own information management systems;
- The burden to businesses which must report certain information to several entities;
- The lack of access to information between entities because of incompatible systems;

- Insufficient emergency communications, again due to competing, duplicative, incompatible, or unavailable communications networks; and
- Difficulties associated with "turf battles" among State agencies and between State and local entities.

State Board of Information Management

The same working group which studied consolidation of fees and reporting also addressed the issue of information management. The group agreed upon several problems, but not upon the appropriate solutions. (See Appendix D.) A document supported by various, though not all, members included a "problem statement," which described a lack of coordination among different entities:

Several state agencies have been involved in the development of information and communications systems * * *. There are also several coordinating bodies * * * there are some duplicated efforts in development of applications and communications networks. It was also determined that some agencies with overlapping responsibilities were not expending the necessary efforts to work together for the successful completion on common projects.

The document further related difficulties between State and local agencies:

* * * Nevada's two primary metropolitan areas, Washoe and Clark Counties, have developed information systems that provide much of the information needed to operate emergency management operations. However, the means to share the information with other agencies or even the state have not been developed.

The group proposed three possible courses of action to address the concern that information management, both at a State and a local level, was fragmented and duplicative, and thus unduly expensive and ineffective. One of the three courses entailed the creation of a State Board of Information Management and the dissolution of three existing coordinating bodies.

During discussion, the Director of the Department of Data Processing (DDP) spoke in favor of the proposed board. The

director advised the subcommittee that the department's proposal to consolidate the responsibility for all telecommunications networks into the DDP had earlier been endorsed by the Legislative Commission's Subcommittee to Study the Feasibility of Privatizing Provision of Governmental Services (Senate Concurrent Resolution No. 2, File No. 198, *Statutes of Nevada 1991*, page 2657).

The subcommittee, therefore, adopted the following recommendations:

- Create a State Board of Information Management, consisting of 11 members appointed by the Governor; and dissolve the State Communications Board in the Department of Motor Vehicles and Public Safety, the Advisory Board on Telecommunications in the Department of General Services, and the Advisory Committee for Data Processing in the Department of Data Processing.

Provide that the board shall assume the powers and duties of the dissolved entities and require the Coordinator of Communications in the Department of Motor Vehicles and Public Safety, the Director of the Department of General Services and the Director of the Department of Data Processing to execute and enforce the decisions of the board.

(BDR 18-381)

- Direct the State Board of Information Management to:
 1. Conduct a study of the existing equipment and software of State and local agencies involved in hazardous materials management;
 2. Conduct a study of the information needs of State and local agencies involved in hazardous materials management, including emergency responders;
 3. Develop proposals to achieve the following goals and report its findings and recommendations to the 1995 Legislature:

- a. Implementation of a system which would allow hazardous materials information to be sent, received, and stored to or from any State or local agency with a need for such information;
- b. Creation of a single hazardous materials information repository and communication network accessible to all first responders in the State; and
- c. Improvement of public access of hazardous materials information.

(BDR 18-381)

- Amend NRS 459.715 to designate the Nevada Highway Patrol Division repository as the sole repository for information gathered pursuant to Public Law 99-499.

(BDR 40-356)

Project Oasis

There were several concerns associated with DEM's Project Oasis, a computerized emergency management system. Testimony was presented to the effect that not all State and local agencies had been consulted prior to development of the system, and further, that funds currently expended for Project Oasis might be better utilized.

The DEM noted that the project was federally funded. In addition, the Director of DEM advised the subcommittee that the division was working with counties and other State agencies. Carson City and Washoe County were connected to the system, and negotiations were ongoing with Clark County, at the time of the final subcommittee meeting. Through grants, the DEM has covered much of the cost of participation by local governments.

Thus, the subcommittee voted to:

- Include in the final report a statement expressing the subcommittee's conclusion that the Division of Emergency Management should consult and cooperate with State and local agencies concerning the

implementation of Project Oasis, the computerized emergency management information system being implemented by the division.

Information Management Duties of DEM

During testimony, the DEM stated that Chapter 414 of the NRS is "vague" regarding the duties and authority of the division. Accordingly, the subcommittee approved the following recommendations, which expand, clarify, and give statutory authority to already existing functions:

- Create the State Emergency Operations Center, within the Division of Emergency Management, as a 24-hour point of emergency notification, and define the duties of the center to include:
 1. Maintenance of a 24-hour emergency notification number;
 2. Notification of an incident to all appropriate Federal, State and local entities;
 3. Maintenance of a written or recorded history of an incident;
 4. Coordination of the development of a post-incident investigation form;
 5. Maintenance of a database of incident information; and
 6. Provision for other agencies' access to incident information.
- Require:
 1. The first local or State entity responding to or aware of a spill, accident, or emergency situation to call the local 911 emergency number and then notify the Division of Emergency Management as soon as possible following awareness of an accident or existence of an emergency;
 2. The Division of Emergency Management to consult with Federal and State agencies and local entities in the development of a list of

subsequent emergency notifications to be made by the division following its notification of an emergency;

3. All those listed on the Division of Emergency Management's subsequent emergency notification list to report any changes in telephone numbers or other information within 10 days to the division.
4. The lead agency investigating an emergency involving hazardous materials to complete a post-incident investigation form, as developed and supplied by the Division of Emergency Management, and submit the form to the division within 30 days of the incident, or as soon as possible thereafter; and
5. The Division of Emergency Management to maintain a database, compiled from post-incident investigation forms, and to produce annual incident reports for distribution to State and local agencies involved in emergency response.

(BDR 36-358)

E. EMERGENCY MANAGEMENT AND PLANS

Included in the DEM's suggestions for amendments to Chapter 414 was a revised definition of emergency management. Thus, the subcommittee adopted the following recommendation:

- Amend Chapter 414 of NRS, relating to emergency management, to clarify that "emergency management" includes a comprehensive program of activities, other than those activities for which military forces are primarily responsible, relating to emergencies of any kind, whether or not due to natural causes. This comprehensive program of activities includes:
 1. Mitigation, defined as efforts to eliminate or reduce the probability that an emergency will occur;
 2. Preparation, defined as efforts to prepare State and local governmental agencies, private

organizations and other persons to be able to respond appropriately when an emergency arises;

3. Response, defined as efforts to prevent and alleviate damage to persons and property during an emergency and to increase the probability that efforts for recovery will be effective; and
4. Recovery, defined as efforts to return persons and property to at least as good a condition in which they were before the emergency arose.

(BDR 36-379)

The DEM had also proposed recommendations related to revision of the *State Emergency Response Plan*. Agency personnel reported that county "all hazards" emergency plans are not mandatory, but voluntary, and further, that these plans differ from the hazardous materials plans required by SARA Title III. In addition, the DEM expressed concern that not all State agencies have plans. The DEM considers agency plans necessary for governmental continuity in the event of a major emergency.

Opponents of the recommendation for mandatory county plans argued that most already have such plans, and further, that the proposal represented additional costs and regulatory burden to local governments.

Thus, the subcommittee did not approve the recommendation requiring county emergency plans, but did adopt a recommendation to:

- Require all State agencies to have an emergency operations plan coordinated and reviewed by the Division of Emergency Management, to submit plans no later than July 1, 1994, and to update them a minimum of every 3 years thereafter.

(BDR 36-380)

F. NEEDS ASSESSMENT, RESOURCES AND RESPONSE

Local Response Needs and Resources

Much of the subcommittee's attention was focused on the ability of the State to respond adequately to an emergency

involving hazardous materials, particularly in rural areas. While specialized, trained hazardous materials response teams operate in Washoe and Clark Counties, the rural counties do not have the equipment or personnel to respond to certain situations.

The subcommittee heard testimony on several proposals, including mutual aid agreements, regional response teams, equipment caches, and interagency response teams. In order to assess the available resources and needs across the State, the subcommittee adopted a recommendation to:

- Direct the State Emergency Response Commission to conduct a survey of:
 1. The resources and needs of districts served by Local Emergency Planning Committees; and
 2. The feasibility and desirability of establishing mutual aid agreements between local entities who respond to emergencies,and to report the results of the survey and recommendations to the 1995 Legislature.
- Provide that the survey shall include an estimation or analysis of:
 1. Available equipment;
 2. Number of volunteer and paid emergency responders and their levels of training;
 3. Past and potential hazardous materials emergencies or risks;
 4. Minimum response capability necessary to mitigate risks (recognizing that containment, until special equipment or trained personnel arrive, may be the reasonable minimum);
 5. Areas which may benefit from mutual aid agreements; and

6. Funds needed to achieve the minimum response capability, both with and without the establishment of mutual aid agreements.

(BDR R-378)

Regional Response Teams

Regional response teams were discussed at various times during the study. Proponents testified that such teams, established in predetermined strategic locations, would enable the State to respond to hazardous materials emergencies in all areas as quickly as possible. In addition, representatives of DEP, the SERC, SFMD, and rural counties emphasized the cost-effectiveness of regional response.

The subcommittee considered two proposals regarding the teams. The first would direct the SFMD to cooperate with various entities in conducting a study of the idea, while the second would appropriate \$2.3 million to the SFMD for the development of three regional response teams. (See Appendix E for additional information about equipment and personnel costs and requirements.)

Cost estimates for a single team ranged from \$200,000 to \$500,000 with additional funding necessary for administration, training, and other support services. In addition, members heard varying testimony regarding the optimal number and location of teams.

Given the substantial costs and various possible configurations of the concept, the subcommittee recommended further study prior to any appropriation of funds as follows:

- Direct the State Fire Marshal Division to cooperate with the State Emergency Response Commission, Local Emergency Planning Committees, existing hazardous materials teams, and other local emergency response agencies in conducting a study of regional response teams and to report its findings and recommendations to the 1995 Legislature. Provide that the study shall address:
 1. Necessary equipment and vehicles;

2. Number of personnel and levels of training which would be required;
3. Area of response and location of the response units;
4. Number of teams necessary to cover the State, given the resources already available in some areas; and
5. Estimated "startup" costs and yearly maintenance costs.

(BDR R-377)

G. TRANSPORTATION

Approximately four billion tons of hazardous materials are transported across the United States each year. In Nevada, an average of 9,000 tons per day are in transit on the State's roads. Not surprisingly, then, testimony from rural LEPCs indicated a concern about the amount of hazardous materials being transported across their counties.

Representatives of rural areas noted that as the volume of materials in transit increases, so does the potential for an accident. Improper placarding, unpermitted or illegal loads, and insufficient highway patrol personnel were also cited as rural area concerns.

Following the 1988 explosion at the Pacific Engineering and Production Company (PEPCON) facility in Henderson, then Governor Richard H. Bryan established a blue ribbon commission to examine the adequacy of various regulations related to hazardous materials. Among the recommendations of the "Henderson Commission" was one that local governments should designate safe areas for drivers of vehicles transporting hazardous materials to rest or park.

A review of the commission's recommendations in April of 1991 suggested that a task force be formed to develop guidelines and model ordinances which would assist local jurisdictions to establish safe havens. During the interim study, representatives of rural communities and of the Department of Motor Vehicles and Public Safety endorsed the concept.

Accordingly, the subcommittee adopted the following recommendation:

- Create a temporary task force to study the designation of "safe havens" for hazardous materials transporters. Include on the task force representatives of:
 1. Nevada's Department of Transportation;
 2. Nevada Highway Patrol Division;
 3. Division of Emergency Management;
 4. Public Service Commission of Nevada;
 5. Nevada Association of Counties;
 6. Nevada League of Cities; and
 7. The trucking industry.
- Provide that the task force shall develop guidelines and model ordinances to assist local jurisdictions with the establishment of such havens.

(BDR S-376)

H. TRAINING

Overview and Background Information to Support Recommendations

The subcommittee heard considerable discussion regarding the training of emergency responders, especially volunteer firefighters. With the exception of DEISH safety standards for paid responders (adopted from 29 CFR 1910.156), there is no statutory minimum for firefighter training in the State. There are nationally recognized standards, however, to which the SFMD trains and certifies responders. Other jurisdictions also offer or require instruction to meet those standards.

Nevada Revised Statutes 477.039 requires the SFMD to offer programs for firefighters and to assist other agencies and organizations to do the same. Currently, the SFMD offers training according to classifications established by the

National Fire Protection Association. The first three levels are Fire Fighter I, Fire Fighter II, and Fire Fighter III. Paid responders have a minimum of first or second level training, while volunteers are often not certified at any level.

State law also directs the SFMD to establish a statewide training program for response to spills of hazardous materials and related fires (NRS 477.045). Such classes are generally not offered on a regularly scheduled basis, but rather by contract as requested or as available.

There are five federally mandated classifications (defined in 29 CFR 1910.120) for emergency response training:

1. First Responder Awareness;
2. First Responder Operational;
3. Hazardous Materials Technician;
4. Hazardous Materials Specialist; and
5. On-scene Commander.

The majority of classes taught by the SFMD are for Level One or Level Two certification. A Level One course enables a first responder to recognize that a hazardous materials situation exists and to notify appropriate agencies and emergency personnel. A Level Two responder is trained to evaluate hazards and to evacuate an area when necessary.

At Level Three, the Hazardous Materials Technician understands basic chemical and toxicological terminology and behavior and is able to implement an emergency operations plan. A Level Four Hazardous Materials Specialist is capable of performing in-depth risk assessments and specialized control, containment and decontamination procedures.

Level Five training is for those individuals who will assume on-site control of an incident. An On-scene Commander is typically a professional member of a fire or police department.

A member of the SERC noted that many hazardous materials incidents occur in rural communities and are handled by

local law enforcement, volunteer fire department, and part-time emergency medical service personnel, who are usually not trained to respond to such incidents.

Representatives of rural counties also expressed concern about the lack of local personnel certified in hazardous materials response. Lack of funding was cited as one obstacle to training. In addition, the time required for volunteers to obtain specialized training is often prohibitive, given that most have other full-time employment. Finally, the high turnover rate in some volunteer departments requires training to be offered on an almost continual basis.

In other testimony, the desirability of clearly defined, uniform training standards was stressed. In a letter to the subcommittee, the Nevada State Firemen's Association related the organization's uncertainty about minimum training requirements.

Standards for Certification

After consideration of the above information, the subcommittee adopted the following recommendation regarding standards for certification:

- Require the State Fire Marshal Division to consult with:
 1. The State Board of Fire Services;
 2. The Division of Enforcement for Industrial Safety and Health; and
 3. Local fire departments,

to adopt regulations concerning the standards for certification of fire service training for both paid and volunteer firefighters, which satisfy United States Occupational Safety and Health standards.

- Require the State Fire Marshal Division to adopt regulations establishing standards for the certification of hazardous materials responder training which satisfy:

1. Federal Occupational Safety and Health requirements under 29 *Code of Federal Regulations* 1910;
 2. Environmental Protection Agency regulations relating to worker protection or hazardous waste operations under 40 *Code of Federal Regulations* 311; and
 3. National Fire Protection Association standards relating to emergency response training, including Standards Nos. 471, 472, and 473.
- Provide that the State Fire Marshal Division shall amend those regulations as necessary to incorporate the training curriculum for public sector responders to hazardous materials transportation incidents which is being developed by the United States Department of Transportation.

Further provide that, in the development of the regulations, the State Fire Marshal Division shall consult with appropriate State and local agencies, including but not limited to:

1. The Division of Enforcement for Industrial Safety and Health;
2. The Division of Emergency Management;
3. The Nevada Highway Patrol Division;
4. Local fire departments; and
5. Local law enforcement agencies.

Direct the Attorney General to assign a Deputy Attorney General to the State Fire Marshal Division to assist in the development of training standards.

(BDR 42-375)

Volunteers and Rural Firefighters

The subcommittee approved the following recommendations to assess the needs of rural response and to adapt training to those needs:

- Require the State Fire Marshal Division to:
 1. Conduct a study of the current training levels of rural firefighters, paid and volunteer;
 2. Consult rural fire departments regarding the level of training necessary for the area; and
 3. Propose alternative methods by which volunteers may satisfy the training standards adopted by the division, which may include but not be limited to:
 - a. Home study for portions of the State Fire Marshal Division courses;
 - b. Extending the time allowed for completion of courses; and
 - c. In-State regional seminars.

(BDR 42-374)

- Require the State Fire Marshal Division to:
 1. Develop a mobile training team to provide hazardous materials training to volunteer firefighters at a location within the district they serve (the mobile training team shall consist of two inspector/instructors and one training officer);
 2. Establish a goal of training all volunteers to the first responder awareness level (as defined in the *Code of Federal Regulations*) during the first 18 months of the mobile training program;
 3. Establish goals for training volunteers to the first responder operational level in subsequent years; and
 4. Study the feasibility of mobile training for the remaining levels of hazardous materials response

(hazardous materials technician, hazardous materials specialist, on scene incident commander).

(BDR 42-373)

- Direct a letter from the subcommittee to members of Nevada's Congressional Delegation expressing its support for a training site for hazardous materials responders, to be developed and funded for the Western United States, with additional funding for the training of volunteers.

Other Recommendations Related to Training

Testimony supported training for responders other than firefighters. In particular, the NHPD is frequently involved in the response to or control of transportation incidents involving a spill of hazardous materials. Actions by agency personnel are often the "first response" to such emergencies. Thus, the subcommittee approved a recommendation to:

- Direct the Nevada Highway Patrol Division to develop a hazardous materials training program for law enforcement personnel and for instructors of law enforcement personnel which is accredited by the Peace Officers Standards and Training Committee in the Department of Motor Vehicles and Public Safety.

(BDR 43-372)

Testimony regarding the expense of developing and conducting training programs was presented by representatives of various State and local entities, including the State Fire Marshal. While training for the first levels of hazardous materials response is both more available and more necessary, additional instruction is limited by financial and other practical considerations. The subcommittee, therefore, decided to:

- Include in the final report the subcommittee's conclusion that the State Fire Marshal Division and local fire departments should coordinate advanced hazardous materials training courses in order to minimize duplication of effort and expense.

- Include in the final report a statement expressing the subcommittee's support for a cooperative effort between the State Fire Marshal Division and the Community College of Southern Nevada, in Henderson, to develop a course for public sector employees involved in emergency response.

I. OCCUPATIONAL SAFETY AND HEALTH

Nevada Revised Statutes 618.305 permits the DEISH to consider several sources in adopting occupational safety and health standards. Some sources, such as the National Fire Protection Association and the CFR are mentioned specifically. Other sources, however, include "any national consensus standard."

According to the SFMD, responding agencies are concerned that they may be held to several standards. The rural fire departments, in particular, may not be aware of a particular "national consensus" standard, or may be unable to obtain the training or equipment to comply with numerous regulations.

Accordingly, the subcommittee approved the recommendation to:

- Prohibit the Division of Enforcement for Industrial Safety and Health from adopting any standards for occupational safety and health for firefighters and hazardous materials responders other than the standards set forth in the *Code of Federal Regulations*.

(BDR 53-371)

J. DEPARTMENT OF PUBLIC SAFETY

At each meeting, testimony was presented regarding the need for a central, coordinating body to manage various aspects of hazardous materials regulation in the State. Some witnesses suggested that the central body should be the SERC and that its role should be to coordinate the efforts of existing agencies; others maintained that the appropriate agencies should be consolidated into a single, new department. Supporters of the latter proposal stated that the merger of agencies would eliminate duplication, reduce confusion, and be more economical.

The subcommittee, therefore, approved the following recommendation:

- Adopt a resolution directing the Nevada Legislature's Legislative Commission to conduct an interim study of the feasibility and desirability of creating a Department of Public Safety and to report its findings, along with any proposed legislation, to the 1995 Legislature.

(BDR R-370)

K. LIABILITY

Public utilities, chemical manufacturers and users or transporters of chemicals often develop expertise in response to emergencies involving hazardous materials. This is particularly true in rural areas, which lack a trained and equipped hazardous materials team in the public sector. Thus, a business, transporter, or utility often instructs its own personnel in proper response techniques and maintains special equipment either on-site or at a location within a specified response area.

Representatives of the Nevada Manufacturers Association and individual businesses testified regarding the lack of a comprehensive liability statute which would permit businesses to assist during an emergency without fear of subsequent litigation. Without such protection, it was argued, businesses are reluctant to provide invaluable assistance, precisely in those areas where it is needed most. The subcommittee, therefore, adopted the following recommendation:

- Extend immunity from civil liability for damages caused by a person in the provision of equipment, advice or other assistance in the mitigation or attempt to mitigate the effects of a discharge of hazardous materials, or in the prevention, cleanup or disposal of, or in the attempt to prevent, clean up or dispose of such a discharge, subject to the following conditions:
 1. Immunity would only apply to a person who is trained in the handling of hazardous materials;

2. Immunity would not apply unless the person was requested to provide the equipment, advice or other assistance by:
 - a. The person responsible for the discharge;
 - b. The Division of Emergency Management;
 - c. The Division of Enforcement for Industrial Safety and Health;
 - d. The Division of Environmental Protection;
 - e. The Nevada Highway Patrol Division;
 - f. The State Emergency Response Commission;
 - g. The State Fire Marshal Division;
 - h. A local fire department;
 - i. A local agency for law enforcement; or
 - j. A Local Emergency Planning Committee.
3. Immunity would not apply to a person:
 - a. Whose act or failure to act was a cause of the discharge; or
 - b. Who receives compensation other than:
 - (1) Reimbursement for his out-of-pocket expenses in provided the equipment, advice or other assistance; or
 - (2) Compensation from his regular employer for the period during which he is actually engaged in rendering the assistance or advice.
4. Immunity would not apply to damages resulting from the person's gross negligence, or from his reckless, wanton, or intentional misconduct.

5. Immunity would apply only if the person has entered into a written agreement, either before or at the scene of the discharge, setting forth the terms and conditions of his participation.

(BDR 40-368)

Early in the study, subcommittee members learned that Elko County did not have an established LEPC. In correspondence to the subcommittee, Elko County officials reported that the question of liability had contributed to the county's reluctance to form a LEPC.

Thus, the subcommittee adopted the following recommendation:

- Clarify that the State Emergency Response Commission and the Local Emergency Planning Committees are immune from civil liability for damages caused while carrying out their duties pursuant to Federal or State statute.

(BDR 40-368)

L. RECOVERY AND CLEANUP

Certification of Environmental Consultants

Nevada Revised Statutes 459.500 requires the State Environmental Commission to adopt regulations which provide for the certification of consultants involved in consultation regarding response to and cleanup of certain hazardous materials incidents.

Following testimony concerning *Nevada Administrative Code* (NAC) 459.9719, adopted pursuant to NRS 459.500, the subcommittee questioned whether the regulation prohibited a public utility from giving certain free consultation without obtaining certification. Legal counsel to the subcommittee advised members that:

* * * if a utility is acting as an environmental manager by giving consultation to the public concerning hazardous substances through an employee, it is the opinion of this office that

such consultation is in conjunction with other services for which the utility charges a fee and that the employee must be certified pursuant to section 20 of the regulation * * *

Later, the DEP notified members that the State Environmental Commission had approved an "advisory opinion" that NAC 459.9719 did not apply to:

* * * information or consultation provided at the request of an agency responsible for emergency response by any person who is not being paid a fee for such information or consultation or for other services related to that response. (See Appendix F for the full text of this advisory opinion.)

Because the regulation remains subject to various interpretations, the subcommittee adopted the following recommendation:

- Amend NRS 459.500 to clarify that representatives of private business may offer free consultation and advice to public agencies regarding hazardous materials incidents without obtaining certification from the Division of Environmental Protection.

(BDR 40-367)

Recovery of Costs Associated with Response and Decontamination

The DEP receives an estimated 40 reports a month of releases of hazardous substances. According to DEP, many of these are effectively handled by the responsible party "without consequence to public health and safety." In other cases, those responsible are either negligent or have inadequate resources to alleviate the hazardous situation. Remediation of these latter cases may be particularly burdensome to the State or local agency involved in cleanup of the release.

In its recommendations to the subcommittee, the SFMD reviewed the problem of costs associated with response to hazardous materials emergencies. The State Fire Marshal suggested that political subdivisions, as well as State agencies, should be authorized to recover those costs from the parties responsible for the emergency.

Currently, NRS 459.760 authorizes any State agency to seek reimbursement of the costs of cleaning and decontamination of the site of a hazardous materials incident, but does not specifically address other aspects of response, including investigation.

Similarly, NRS 459.770 authorizes a county or city to adopt an ordinance to effect recovery by legal action of those costs incurred in cleaning and decontamination, but does not include response as a recoverable cost.

Therefore, the subcommittee adopted the following recommendations:

- Amend NRS 459.760 to:
 1. Include response among those expenses which a State agency may seek to recover from the person responsible for a spill or accident involving hazardous materials; and
 2. Direct the State Emergency Response Commission to advise the Nevada Legislature's Interim Finance Committee, or Legislature if in session, of the need for a supplemental appropriation to the responding agency, if the costs of response cannot be recovered from the responsible person.
- Amend NRS 459.770 to include costs of response to a spill or accident among those costs for which a political subdivision is authorized to adopt an ordinance to seek recovery.
- As used in NRS 459.535, 459.755, 459.760 and 459.770, which relate to expenditures and recovery of expenditures for costs associated with hazardous materials incidents, define "response" as the efforts to assist in the mitigation or attempt to mitigate the effects of a discharge of hazardous materials, which may include but are not limited to:
 1. Fire prevention or control;
 2. Law enforcement;
 3. Containment of a spill or discharge;

4. Cleanup or disposal of a spill or discharge;
5. Decontamination of the area affected by a spill or discharge; and
6. Post-incident investigation.

(BDR 40-366)

V. CONCLUSION

By one estimate, over 9,000 facilities in Nevada handle hazardous materials. The quantities stored or used, the degree of hazard represented by different chemicals, and the level of safety and planning at each of these sites vary considerably.

In addition, several thousand tons of hazardous substances traverse the State daily, by rail or truck. A portion of this daily traffic is import, export, or intrastate. The remainder passes through Nevada on its way from one state to another.

The management of these hazardous materials is a shared responsibility. Cooperation among State and local regulatory entities, businesses, and emergency responders is essential to the safety of Nevada's citizens and the protection of its environment.

The subcommittee is grateful for the support of those who contributed their time, expertise, and suggestions to the study. The recommendations considered and ultimately adopted by the members reflect the commitment to safety shared by all who participated.

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APPENDIX A

Assembly Concurrent Resolution No. 79
(File No. 182, *Statutes of Nevada 1991*,
pages 2641-2642)

Assembly Concurrent Resolution No. 79—Committee on
Government Affairs

FILE NUMBER.....182

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of the laws relating to emergencies involving hazardous materials.

WHEREAS, National attention was focused on the dangers of hazardous materials during the past 3 years when a fire and explosions occurred at Pacific Engineering and Production Company on May 4, 1988, and then again during the recent chlorine leak at the Pioneer Chlor Alkali Company at the BMI complex near the City of Henderson on May 6, 1991; and

WHEREAS, The use, production, storage, transportation and disposal of hazardous materials throughout this state pose a potential danger to the lives and property of Nevadans unless properly managed; and

WHEREAS, Residents of Nevada expect their state and local governments to ensure the proper management of hazardous materials, and to have emergency plans in effect to cope with potential disasters from such materials; and

WHEREAS, The Federal Government has adopted laws requiring the development of emergency response plans at all levels of government; and

WHEREAS, The Henderson Commission report, completed at the request of Governor Bryan, after the explosions at the Pacific Engineering and Production Company, and the recent status report completed at the request of Governor Miller, on the implementation of the Henderson Commission recommendations, make it clear that much work has been done on planning for emergencies, but much remains to be done; and

WHEREAS, There are a number of agencies with jurisdiction over the use, production, storage, transportation and disposal of hazardous materials, and coordination among these agencies is vital to the health, safety and welfare of the residents of Nevada; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of state laws relating to emergencies which may result from the use, production, storage, transportation and disposal of hazardous materials; and be it further

RESOLVED, That the study include a review of:

1. The jurisdictions of all state and local agencies with responsibilities relating to the use, production, storage, transportation and disposal of all types of hazardous materials;

2. The coordination among these agencies; and

3. The effectiveness of state and local systems for implementing Public Law 99-499 (the Superfund Amendments and Reauthorization Act of 1986 (SARA) Title II);

and be it further

RESOLVED, That the study include an evaluation of the effectiveness of state and local systems for the following aspects of emergencies involving hazardous materials:

1. Planning;

2. Mitigation;
 3. Providing emergency responder training;
 4. Responding and coordinating responses;
 5. Effecting recovery from such emergencies;
 6. Emergency notification systems and procedures among all agencies;
 7. Education dealing with such emergencies within the Nevada school systems and among the general public;
 8. Direction, control and warning systems; and
 9. Emergency communication systems;
- and be it further

RESOLVED, That the Legislative Commission report the results of the study and any recommended legislation to the 67th session of the Nevada Legislature.

19  91

APPENDIX B

Memorandum dated March 6, 1992, to the Chairman and Members of the A.C.R. 79 Subcommittee from Denice L. Miller, Senior Research Analyst, titled "Draft Outline of State Agency Responsibilities in the Area of Hazardous Materials Management"

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March 6, 1992

MEMORANDUM

TO: Chairman and Members, Legislative Subcommittee to Study
Laws Involving Hazardous Materials Emergencies
(A.C.R. 79)

FROM: Denice L. Miller, ^{pm} Senior Research Analyst

SUBJECT: Draft Outline of State Agency Responsibilities in the
Area of Hazardous Materials Management

At the October 16, 1991, meeting, I presented a draft outline of hazardous materials management in Nevada. The outline listed the various State agencies and other entities involved in emergencies involving hazardous materials.

Assemblywoman Sandra Krenzer requested a more detailed analysis of the first category of the outline titled "Regulation, Inspection, And/or Fee Collection."

In researching this request, I solicited comments from State agencies listed in the outline. The attached document, "Draft Outline of Hazardous Materials Management in Nevada," provides more detail concerning regulation and fee collection. I also included additional information for the other categories in the original document.

I hope that this outline will be useful to you. Please contact me if you have any questions.

DM/llp:hazmat,M13
Enc.

DRAFT OUTLINE OF
HAZARDOUS MATERIALS EMERGENCY MANAGEMENT
IN NEVADA

I N T R O D U C T I O N

The following draft summarizes the involvement of various State agencies, emergency response personnel, and businesses in the area of hazardous materials emergency management. The summary is divided into several categories as follows:

- I. Regulation, Inspection And/Or Fee Collection
- II. Information Gathering And Maintenance
- III. Planning
- IV. Training
- V. Incident Reporting
- VI. Response
- VII. Coordination, Communication And Direction of Response
- VIII. Recovery And Cleanup

The outline primarily details the responsibilities and authorities of State agencies. Some instances of local and Federal involvement are noted, however. Whenever possible, statutory authority is referenced.

I. REGULATION, INSPECTION AND/OR FEE COLLECTION

- Division of Environmental Protection (DEP), State Department of Conservation and Natural Resources (SDCNR)

Nevada Revised Statutes (NRS) 459.380 through 459.3874, effective July 1, 1992, provide for the regulation of facilities handling highly hazardous materials. Certain provisions apply to "all persons" required to register in compliance with the Superfund Amendments and

Reauthorization Act (SARA) of 1986. Others apply only to sites where specified materials are handled or stored in excess of designated quantities. These sites are defined in statute as "regulated facilities," and are approximately 50 in number.

NRS 459.3820 directs DEP to adopt common reporting forms to be used by agencies reporting hazardous materials information. The same provision requires the Health Division of the Department of Human Resources and the Division of Enforcement for Industrial Safety and Health of the Department of Industrial Relations to submit to DEP any related reports the division deems necessary. The DEP is further directed to review the rules, regulations, standards, codes, and safety orders of responsible agencies to ensure their sufficiency.

According to Subsection 4 of NRS 459.3820, if DEP and "any other governmental entity or agency of the state" have coexisting jurisdiction over regulation of facilities or hazardous substances, the DEP has the "final authority" to carry out the provisions of NRS 459.380 through 459.3874. Those provisions include facility regulation and inspection and the division's site assessments.

NRS 459.3824 requires DEP to collect a one-time inventory fee from each person required to register in compliance with SARA. The \$100 fee is to cover costs incurred in developing an inventory of regulated facilities. This is not a per-facility fee. In addition, Subsection 2 authorizes an annual fee, which is the sum of a base fee and a volume fee, to be paid by each registrant.

NRS 459.3828, effective July 1, 1992, directs DEP to develop a registration form for facilities involved with hazardous materials. The form is to include a description of the types of hazardous substances at the facility, the manner in which these are used or controlled, and a hazard assessment.

NRS 459.383, effective July 1, 1992, requires regulated facilities to submit to the division a safety report which includes an emergency plan.

NRS 459.3836, effective July 1, 1992, requires a regulated facility to submit to a risk assessment at least every

5 years. The division is charged with establishing a priority system for facilities to be assessed (NRS 459.3838).

NRS 459.387, effective July 1, 1992, permits DEP to enter a facility during regular business hours or at any time if there is reason to believe certain violations have occurred.

In addition, Subsection 3 requires a regulated facility to file with the division an annual report of compliance with its hazard abatement plan.

NRS 459.470 designates the SDCNR as the State agency for regulation of hazardous waste.

NRS 459.500 directs the SDCNR, the Public Service Commission of Nevada (PSCN), and Nevada's Highway Patrol Division (NHPD) to enforce regulations for the licensing and other necessary regulation of generators who cause waste to be transported into, through, or for disposal in the State. The regulations may include fees to pay the costs of inspection, certification of consultants, and other regulation.

NRS 459.505 authorizes the director of the SDCNR to enter into agreements relating to State land used for the disposal of hazardous waste.

NRS 459.512 requires DEP to collect a fee of \$6.00 per ton of the volume received for the disposal of hazardous waste. Of this total collected on each ton, the State Fire Marshal receives \$4.50 for training emergency personnel, and the PSCN receives \$1.50 for the inspection of rail shipments of hazardous materials.

NRS 459.515 and 459.520 provide for the issuance of permits for the management of hazardous waste and the construction or operation of a facility for the management of hazardous waste.

NRS 459.530, in part, requires that all proceeds from agreements entered into pursuant to NRS 459.505, or from certain penalties and reimbursements, be deposited to the account for the management of hazardous waste.

NRS 459.560 authorizes the department or the SEC to inspect "any place" where there is reason to believe a hazardous material is generated, stored, transported or otherwise handled. This authority does not extend to counties with populations less than 40,000 or to mining or agriculture activities.

NRS 459.565 permits the department to take action to prevent an act which constitutes a hazard to human health, public safety, or the environment. The same limitations above apply.

NRS 459.822 designates SDCNR as the State agency responsible for regulation of storage tanks.

NRS 459.848 authorizes the SDCNR or the SEC to enter any place where there is reason to believe there are storage tanks and to inspect areas of suspected releases.

NRS 445.211 designates the SDCNR as the State water pollution control agency.

- State Environmental Commission

The SEC adopts regulations governing environmental matters including air and water pollution, hazardous waste and storage tanks.

NRS 459.470 designates the SDCNR as the State agency for the regulation of hazardous waste. The commission, however, is responsible for adoption of regulations for waste management. In addition, the commission shall, "through the department," develop a plan for the management of hazardous waste and a program to encourage the minimization of such waste (NRS 459.485).

NRS 459.500 authorizes the SEC to adopt regulations for the licensing and other necessary regulation of generators who cause waste to be transported into, through, or for disposal in the State. The regulations may include fees to pay the costs of inspection, certification of consultants, and requirements for safe transportation of waste.

NRS 459.510 allows the commission to establish license fees and "any other fees" for the use of State-owned disposal

areas for hazardous waste. The use fee must not be less than 25 cents per cubic foot of disposed material.

NRS 459.560 permits the SEC or the SDCNR to inspect "any place" where there is reason to believe a hazardous substance may be generated, stored, transported, or otherwise handled.

NRS 459.590, in part, makes it unlawful to transport hazardous waste without a manifest which complies with regulations adopted by the commission.

NRS 459.826 requires the SEC to adopt regulations concerning storage tanks, which include notification to the department of tank location, size, and contents; provisions for the reporting of a release and corrective action; and establishment of procedures for inspection, testing, and reporting to the SDCNR.

NRS 459.836 permits the SEC to adopt regulations concerning storage tank permits and to assess a fee for the issuance of permits.

NRS 459.848 authorizes the commission or the SDCNR to inspect storage tanks or areas where tanks are believed to be.

NRS 590.850, which provides for the registration of petroleum storage tanks (except tanks storing petroleum for use in a chemical process), authorizes an annual fee of up to \$50 per tank to be deposited in the fund for cleaning up discharges of petroleum.

- Nevada's Highway Patrol Division (NHPD), Department of Motor Vehicles and Public Safety (DMV&PS)

NRS 459.705 requires a permit to be obtained from the NHPD for the transport of certain hazardous materials in a motor vehicle. Each vehicle used for transport is subject to an inspection, and the qualifications of the driver are subject to verification (*Nevada Administrative Code* [NAC] 459.986).

NRS 459.710 authorizes the DMV&PS to establish fees to pay the costs of inspection, issuing permits, and other

regulation of motor vehicles transporting hazardous materials.

NRS 706.173 permits the department and the PSCN to adopt regulations concerning the transport of hazardous materials by motor vehicle.

NAC 459.975 through 459.991 sets forth regulations relating to the transportation of hazardous materials on public highways. The division adopts by reference provisions of the *Code of Federal Regulations* (CFR) pertaining to such transportation.

- Department of Industrial Relations (DIR)

The DIR does not assess hazardous materials fees. Its Division of Enforcement for Industrial Safety and Health (DEISH) does, however, impose fines for safety violations.

The DIR's involvement in the area of hazardous materials includes regulations governing facility and employee safety and emergency responders.

The DEISH standards for occupational safety and health are adopted from 29 CFR 1910. Regulations specific to hazardous materials are found in 29 CFR 1910.101-1910.120, inclusive.

Regulations for "fire brigades" and their equipment are found in 29 CFR 1910.155 through 1910.165.

NRS 618.325 authorizes DIR to examine books, papers, records, documents, and testimony, to enter a business "without delay and at reasonable times," and to inspect and investigate. Prior notification of a randomly scheduled or customary inspection is prohibited.

NRS 459.3816, which designates fines "highly hazardous substances," calls for the DEP to consult with DEISH and with the Health Division to update the list of highly hazardous substances.

Chapter 512 of NRS provides for the regulation of the mining industry. The Division of Mine Inspection of DIR may "adopt any regulations for mine health and safety [it]

deems necessary and which are consistent with the Federal Mine Safety and Health Act (30 U.S.C. Section 801, et seq.), as amended" (NRS 512.131).

- Health Division, Department of Human Resources (DHR)

NRS 459.020 designates the Health Division as the State radiation control agency. NRS 459.030 outlines the duties of the agency: developing programs for the evaluation of and response to hazards associated with the use of sources of ionizing radiation; developing regulations for the licensing and regulation of by-product materials, special nuclear materials, and other radioactive materials, including radioactive waste.

NRS 459.050 permits the Health Division to inspect "at any reasonable time" a public or private facility to determine compliance with statutes relevant to radiation control.

NRS 459.080 permits the Governor to enter into agreements with the Federal Government "providing for discontinuance of certain responsibilities of the Federal Government relating to sources of ionizing radiation and the assumption of such responsibilities by this state." Following the signing of such an agreement with the Nuclear Regulatory Commission (NRC), the Health Division is now responsible for programs dealing with radioactive materials licensing, regulation, and fee collection where the division has jurisdiction. A second agreement, with the United States Department of Energy, empowers the Health Division, DEM and DEP to develop regulatory and oversight programs relating to the Nevada Test Site.

NRS 459.211 directs the State Board of Health to establish by regulation license fees and any other fees for the operation of State-owned areas for the storage or disposal of radioactive materials. In addition, the board must establish fees, chargeable against shippers or brokers, for the use of such areas.

NRS 459.221 requires a shipper, producer, or recipient of radioactive waste to obtain a license from the Health Division to dispose of waste. The director of DHR may designate third parties to inspect shipments.

NRS 459.231 establishes a trust fund for the care of sites for the disposal of radioactive waste. The director of DHR is responsible for its administration.

- State Fire Marshal Division (SFMD), Department of Commerce

Subsection 1 of NRS 477.030, in part, requires the SFMD to enforce all laws and adopt regulations relating to fire prevention, combustibles, flammables, and fireworks. Subsection 6 directs the division to provide specialized training in investigating the causes of fires, if requested.

NRS 477.045, which also directs the establishment of a statewide hazardous materials training program, authorizes the SFMD to issue permits for the storage of hazardous materials. The fee for the permit is to include a surcharge of \$60, in addition to any other amount charged. (The permit fee is currently \$120.) The revenue is to be deposited to the contingency account for hazardous materials.

- Public Service Commission of Nevada

NRS 459.250 directs "peace officers" of the PSCN and the NHPD to enforce certain provisions of NRS 459.221 and 706.441 which govern the transport and handling of radioactive waste.

Subsection 3 of NRS 459.500 charges the PSCN, as well as the NHPD and the SDCNR, with enforcing certain SEC regulations regarding the transport and handling of hazardous waste.

NRS 706.166 authorizes the PSCN to supervise and regulate common and contract motor carriers. NRS 706.173 authorizes the commission and the DMV&PS to adopt regulations concerning motor vehicles transporting hazardous materials. Such regulations may include standards for the safety of drivers and vehicles and the transportation of hazardous materials and hazardous waste as defined in NRS 459.430.

The PSCN also cooperates with the USDOT and the Federal Railroad Administration in inspecting railroad facilities for compliance with hazardous materials regulations.

- State Department of Agriculture (SDA)

Chapter 586 of NRS relates to pesticides and dangerous caustic or corrosive substances. NRS 586.250 requires the registration of pesticides with the Executive Director of the SDA. NRS 586.270 requires a fee of \$25 for each pesticide registered.

Additional provisions of Chapter 586 govern the regulation of pesticides, including "restricted use" pesticides, which may require special permits.

NRS 586.460 defines several caustic or corrosive substances. NRS 586.500 authorizes the Commissioner of Food and Drugs to approve and register brands and labeling of these substances.

- State Board of Agriculture

Chapter 590 of NRS relates to petroleum products and antifreeze. Various provisions deal with labeling requirements, advertising, and adulterated or reclaimed products.

NRS 590.070 directs the State Board of Agriculture to adopt regulations relating to standards of fuel.

NRS 590.120 provides for an inspection fee, paid to the Department of Taxation, of 0.055 of a cent per gallon of gasoline or lubricating oil which is transported into the State or held for sale. Of this fee, 0.005 of a cent is transferred quarterly to an account in the State General Fund for the State Board of Agriculture.

- State Board for the Regulation of Liquified Petroleum Gas

NRS 590.515 directs the board to adopt such regulations as are necessary to protect the health, welfare, and safety of the public and persons using liquified petroleum gas.

NRS 590.519 authorizes inspections. NRS 590.555 provides for permit issuance and corresponding fees.

- State Emergency Response Commission (SERC)

NRS 459.735, which creates the contingency account for hazardous materials, charges the State Emergency Response

Commission with administration of the account. Twenty percent of the fees collected by the NHPD, pursuant to NRS 459.710 (hazardous materials permit fees), are to be deposited to the account.

Subsection 1 of NRS 459.744 directs the SERC to establish a fee schedule for its services and regulatory activities. The fee must approximate the cost to the commission of performing those services and activities.

Subsection 2 of NRS 459.744 authorizes the commission to collect a fee, "not to exceed \$5,000 per year," from each person who stores an extremely hazardous material in an amount greater than the threshold quantity established for such a material in Appendix A or B of Part 355 of Title 40 of the CFR. The fee includes a per-facility filing fee and a surcharge for each ton stored in excess of 1 ton.

According to Subsection 3 of NRS 459.744, the SERC shall establish a fee, "not to exceed \$2,000 per year," for each person who manufactures for transport an extremely hazardous material as in Subsection 2. The fee includes a per-facility filing fee and a surcharge for each ton manufactured for transport.

NRS 459.746 requires that a reporting fee of \$500 be paid to the commission by all persons who submit a toxic chemical release form pursuant to Public Law 99-499, "except that a person must not be required to pay more than \$5,000 in reporting fees in any calendar year."

- Department of Taxation

NRS 590.840 authorizes the department to collect fees for certain fuels and heating oil. The fees are deposited to the fund for cleaning up discharges of petroleum, which is administered by DEP.

- County and Local Agencies

County and local agencies (for example, county health departments and local fire departments) may also require permits, conduct inspections, and collect fees.

- Governor

NRS 459.3864, effective July 1, 1992, calls for the Governor to create an oversight committee whenever there is an accident, or near accident, which poses a "significant danger" to the public. Also, the Governor may appoint a committee to oversee the management of risks in a facility or group of facilities when it is deemed in the best interests of public health and safety.

II. INFORMATION GATHERING AND MAINTENANCE

- State Emergency Response Commission (SERC)

The Superfund Amendments and Reauthorization Act (SARA) of 1986 charges the SERC with the collection and dissemination, as required, of information regarding hazardous materials in the State. NRS 459.740 empowers the SERC to adopt regulations for the purpose of enforcing its federally mandated responsibilities. Various member agencies of SERC participate in the commission's activities.

In addition to ensuring the maintenance of a hazardous materials information repository, the SERC is responsible for the collection of data on toxic chemical releases.

NRS 459.742 authorizes the SERC to develop a system for public access to hazardous materials data.

- Local Emergency Planning Committees (LEPCs)

Title III of SARA directs LEPCs to collect and organize chemical information for facilities in their areas. In addition, Sections 311 and 312 of Title III requires facilities with material safety data sheets for hazardous chemicals to submit detailed information to LEPCs, the SERC, and the local fire departments.

- Nevada's Highway Patrol Division, Department of Motor Vehicles and Public Safety (DMV&PS)

NRS 459.715 designates the NHPD as responsible for the "repository of information concerning hazardous materials."

Further, Subsection 6 of NRS 481.180 defines maintenance of the repository as one of the division's duties.

NRS 459.720 requires the reporting of designated accidents or incidents involving hazardous materials to the department within 10 days.

NRS 459.730 requires the NHPD and the Governor to be notified of transportation of controlled quantities of radioactive material or high-level radioactive waste. Unless confidential, this information is to be made available to other state and local governmental agencies whose responsibilities include a need for that information.

- Division of Emergency Management (DEM), Department of the Military

The DEM collects data which is reported pursuant to Section 312 of Title III of SARA. This chemical inventory currently is input by DEM for the NHPD's repository and for DEM's "Project Oasis." The DEM also collects Section 304 (Emergency Release Notification) and Section 313 (Toxic Release Inventory) data.

- Division of Environmental Protection, State Department of Conservation and Natural Resources

The division will collect information from a combined reporting form developed pursuant to NRS 459.3820. In addition, NRS 459.383 and 459.3836 will require certain "regulated facilities" to file safety reports with the division and undergo risk assessments.

NRS 459.3818, effective July 1, 1992, requires the division to "make every effort" to involve advisory councils on hazardous materials, local governments, and other interested persons in explaining division actions to carry out NRS 459.380 through 459.3874.

NRS 459.550 declares it to be unlawful for any person to generate, store, transport, treat, or dispose of hazardous waste without reporting each activity to the SDCNR in accordance with regulations adopted by the State Environmental Commission (SEC). The same subsection requires submission of hazardous waste reports. NRS 459.555 notes

that except for certain designated "trade secret" information, all data obtained by the SDCNR is public information.

- Department of Industrial Relations (DIR)

NRS 618.345 directs the Division of Preventative Safety to maintain occupational safety and health statistics. Industrial insurers are to provide the division with a monthly report of industrial injuries.

- Health Division, Department of Human Resources (DHR)

NRS 459.030 requires the Health Division to collect and disseminate information relating to control of sources of ionizing radiation.

NRS 459.060 directs the division to require persons involved with sources of ionizing radiation to maintain records relating to its receipt, storage, transfer or disposal.

- State Fire Marshal Division (SFMD), Department of Commerce

The division collects and maintains information on the use and storage of hazardous materials under NRS 477.045.

- Local Fire Departments

Under provisions of SARA Title III, facilities are required to report to the SERC, the area LEPC, and the local fire department.

- Public Service Commission of Nevada (PSCN)

NRS 703.195 permits the PSCN to examine during regular business hours the books, records, accounts, and property of any public utility or motor carrier which does business in the State.

The commission also gathers information under its general authority over public utilities and carriers granted in NRS 704.020 and 706.166.

The PSCN maintains records required by Federal statute and adopted as regulations under NRS 706.173.

- Governor

NRS 459.730 requires the Governor and the NHPD to be notified of the transportation of controlled quantities of radioactive material or high-level radioactive waste; unless confidential, this information is to be made available to other state and local governmental agencies concerned with hazardous materials.

- Individual Business or Facility

The facility is charged with reporting to various State and local agencies.

III. PLANNING

- Governor

NRS 414.060, which describes the powers and duties of the Governor in the area of emergency management, authorizes him to prepare a comprehensive emergency plan. The Governor may also make studies of the State's emergency resources.

- State Emergency Response Commission (SERC)

The Superfund Amendments and Reauthorization Act (SARA) of 1986 requires Local Emergency Planning Committees (LEPCs) to submit emergency plans to the SERC for review. The SERC may make suggestions for plan improvements. NRS 459.740 authorizes the commission to adopt regulations for the purpose of enforcing its federally mandated responsibilities.

NRS 459.742 authorizes the SERC to assist with the development of comprehensive emergency plans.

- Local Emergency Planning Committees

Sections 301-303 of SARA Title III require LEPCs to collect and organize chemical information and to develop emergency plans for their communities.

- Division of Emergency Management (DEM), Department of the Military

NRS 414.035 defines "emergency management" as "the preparation for and carrying out of all emergency functions * * * ." The division reviews LEPC plans and also offers assistance in preparation of plans.

- Nevada's Department of Transportation (NDOT)

NRS 459.125 directs NDOT to develop a plan for routing shipments of controlled quantities of radioactive materials and high-level radioactive waste. The department is to work with the United States Department of Transportation (USDOT), regional transportation commissions, and other states.

NRS 408.141 authorizes NDOT's board of directors to designate alternative routes for the transport of radioactive, chemical, or other hazardous materials through the State, in lieu of routes designated by the USDOT.

- Division of Environmental Protection, State Department of Conservation and Natural Resources

NRS 459.3854, which relates to highly hazardous substances, directs the division to review hazard abatement plans of regulated facilities and to propose modifications as necessary.

NRS 459.475 requires the department to develop a plan for the management of hazardous waste, to cooperate with other states in its management, and to encourage the enactment of uniform State laws relating to hazardous waste.

- State Environmental Commission

NRS 459.485 directs the commission, through the State Department of Conservation and Human Resources, to develop a plan for the management of hazardous waste.

- Department of Industrial Relations

NRS 618.350 requires the Division of Preventative Safety to develop a program of eliminating or abating hazards and to provide advisory services to employers to promote safety.

- State Fire Marshal Division

NRS 477.030 details the duties of the State Fire Marshal, which include adopting regulations for the storage and use of combustibles, flammables, and fireworks and providing assistance and materials to local authorities for the establishment of programs for public education and other fire prevention activities. In addition, Subsection 9 directs the State Fire Marshal to assist in checking building plans.

The division may assist industry in forming comprehensive emergency plans.

- Health Division, Department of Human Resources

NRS 459.030 requires the Health Division to develop and conduct programs for the evaluation of and response to hazards associated with the use of sources of ionizing radiation.

- Division of State Lands, State Department of Conservation and Natural Resources

The division provides technical land use planning assistance upon request. The division also distributes a "Hazardous Materials Directory" with information concerning State agencies' involvement with hazardous materials.

- Individual Business or Facility

NRS 459.383, effective July 1, 1992, requires a regulated facility to provide the DEP with a safety report which includes an emergency plan for the facility.

NRS 459.3852, effective July 1, 1992, outlines the required recommendations of the person conducting a risk assessment at a regulated facility. The recommendations must include a detailed hazard abatement plan to reduce accidents.

Sections 301-303 of SARA Title III require LEPCs to collect and organize chemical information and to develop emergency plans for their communities. Facilities with extremely hazardous substances above threshold quantities must participate in planning.

IV. TRAINING

- State Fire Marshal Division (SFMD), Department of Commerce

While the division's primary training responsibility is for basic firefighting, hazardous materials programs are a significant element of the division's duties.

Subsection 9 of NRS 477.030 requires the SFMD to provide specialized training to local fire departments.

NRS 477.039, in part, directs the State Fire Marshal to establish a regional hazardous materials training facility and furnish training programs concerning hazardous materials for emergency personnel, agencies and other persons.

NRS 477.045 requires the division to establish a statewide training program for response to spills of hazardous materials and related fires.

- Local Fire and Police Departments

Local fire and police departments may offer specialized training for responders or for those needing to identify a hazardous materials situation.

- Division of Emergency Management (DEM), Department of the Military

The division offers courses in emergency management, including search and rescue and incident command.

- Highway Patrol Division (NHPD), Department of Motor Vehicles and Public Safety (DMV&PS)

The department offers training to the transportation industry, including driver and vehicle safety.

The Nevada Highway Patrol Academy provides hazardous materials training at a first responder level to highway patrol officers.

The Peace Officers Standards and Training Committee offers training to local law enforcement personnel.

- Division of Preventative Safety (DPS), Department of Industrial Relations (DIR)

NRS 618.353 directs the DPS to conduct informational programs on the importance and proper use of adequate safety and health equipment in the workplace. The division must also provide for the establishment of programs to train employers and employees to recognize, avoid, and prevent unsafe or unhealthful working conditions.

- State Emergency Response Commission (SERC)

NRS 459.742 authorizes the SERC to provide technical and administrative support and assistance for training programs.

The SERC provides grants for responder training and equipment.

- Division of Environmental Protection, State Department of Conservation and Natural Resources

Division employees involved with the handling of hazardous materials receive safety training.

- Nevada's Department of Transportation

The department stores and uses certain hazardous materials. Thus, the department offers training to those employees who handle the materials, and to others who may need to recognize a hazardous material situation.

- Health Division, Department of Human Resources

The division provides technical assistance for training programs as requested.

- Individual Business or Facility

NRS 618.383 requires certain employers to develop written safety programs. The safety program must include training on identifying potential hazards in the workplace.

Facilities have also trained employees in response (e.g., some railroads and chemical companies).

V. INCIDENT REPORTING

- Individual Business or Facility

Section 304 of SARA Title III requires that a facility notify the National Response Center immediately when a release occurs. A written followup report is filed with the Nuclear Regulatory Commission (NRC), the State Emergency Response Commission (SERC), and the appropriate Local Emergency Planning Commission (LEPC).

Section 313 of SARA Title III requires facilities that release certain toxic chemicals to report the emission to the United States Environmental Protection Agency and to State officials.

- Highway Patrol Division, Department of Motor Vehicles and Public Safety

NRS 459.720 requires that certain accidents or incidents involving hazardous materials be reported to the Highway Patrol Division.

- Division of Emergency Management (DEM), Department of the Military

NAC 445.240 requires notification of releases to the division.

When DEM is notified of an emergency or release, the division notifies all affected Federal and State agencies.

- State Emergency Response Commission

Section 304 of SARA Title III requires facilities to report certain releases to the SERC and to Local Emergency Planning Committees.

- Local Emergency Planning Committees

Section 304 of SARA Title III requires facilities to report certain releases to the SERC and to LEPCs.

- State Fire Marshal Division, Department of Commerce

Subsection 7 of NRS 477.030 directs the State Fire Marshal to put into effect a Uniform Fire Incident Reporting System throughout the State and to publish annually a summary of data collected with the system. The division is currently studying the requirements to put such a system into effect.

- Health Division, Department of Human Resources

In the event of a radiological emergency, the division notifies the NRC.

- Division of Environmental Protection, State Department of Conservation and Natural Resources

Releases into water are reported to the division, usually through DEM.

- Public Service Commission of Nevada (PSCN)

NRS 704.190 requires public utilities to report accidents to the PSCN. The commission may investigate such accidents if deemed necessary.

- First Responders (Local Fire and Police)

First responders to a scene notify those agencies whose involvement or notification is necessary.

VI. RESPONSE

- Individual Facility or Business

Some facilities have personnel trained to recognize or respond to hazardous materials emergencies.

- Local Fire and Police Departments

Local emergency responders may be involved in many types of incidents. Involvement may include containment of a spill and keeping the public clear of the incident area. In some cases, local personnel may notify specialized response teams who are trained to handle a particular kind of emergency.

- Highway Patrol Division (NHPD), Department of Motor Vehicles and Public Safety (DMV&PS)

NRS 481.180 defines the duties of the NHPD, which include the investigation of accidents and "policing" public highways.

The division is responsible for traffic control during an incident and may also assume incident command if necessary.

- Nevada's Department of Transportation

The department can provide traffic signs and assist with traffic control as necessary. Maintenance vehicles and equipment may also be used in an emergency.

- Local Hazardous Materials Response Teams

Specialized hazardous materials response teams operate in Clark and Washoe Counties, and, if requested, may offer technical expertise outside response areas.

- State Fire Marshal Division, Department of Commerce

The division investigates incidents involving hazardous materials under NRS 477.015, which accords certain personnel the status and powers of peace officers.

During an incident, the State Fire Marshal may consult with responders.

- Health Division, Department of Human Resources

The Health Division provides technical assistance in the event of radiation emergencies or other incidents involving radiation sources (NRS 459.030). Assistance to local responders is provided from Carson City and Las Vegas division offices. Staff and equipment are available throughout the State upon request.

In the event of a leakage or spill during transport of radioactive waste, an officer designated by the Health Division may order the vehicle impounded, the leakage or waste cleaned up, the contents of an unsafe package to be repackaged, or other appropriate remedy.

NRS 459.260 authorizes the division to impound sources of ionizing radiation if necessary.

VII. COORDINATION, COMMUNICATION AND DIRECTION OF RESPONSE

- Governor

NRS 414.060 authorizes the Governor to "assume direct operational control" over emergency management if the emergency is "beyond" local control.

NRS 414.070 details the additional powers of the Governor during a state of emergency.

- Nevada's Highway Patrol Division, Department of Motor Vehicles and Public Safety

NRS 481.180 requires the division to "police" the State highways. The NHPD generally directs or coordinates response during a highway incident. The division's communication network is utilized in an emergency as necessary.

- Division of Emergency Management (DEM), Department of the Military

NRS 414.035 defines "emergency management" as the preparation for and carrying out of all emergency functions * * * ." The DEM is available to provide technical assistance as required by the Governor or as requested by local entities.

- Health Division, Department of Human Resources

NRS 459.020 designates the Health Division as the State radiation control agency. Thus, the division is involved in coordinated response efforts, under the direction of DEM and upon the request of local responders, or as necessary.

NRS 459.260 allows that in the event of an emergency, the division may impound sources of ionizing radiation.

- State Fire Marshal Division, Department of Commerce

The division investigates incidents and may participate in response under NRS 477.015 and 477.030.

- Local Hazardous Materials Response Teams

Hazardous materials teams work with other first responders and involved agencies in a coordinated effort.

- Local Fire and Police Departments

Local responders necessarily participate in coordination, communication and direction of response. The level of involvement depends upon the type of emergency.

VIII. RECOVERY AND CLEANUP

- Individual Facilities, Companies or Responsible Persons

NRS 459.750 declares the responsibility for cleaning and decontamination to be with any person who possessed or had in his care the hazardous materials involved.

- Division of Environmental Protection, State Department of Conservation and Natural Resources

NRS 459.535 defines uses of funds from the account for the management of hazardous waste. In the event of an accident where response from the accountable party is inadequate or slow, funds may be used to respond to the accident, to coordinate response efforts, to manage the cleaning and decontamination of the area, and to remove the waste or hazardous material. Subsection 4 directs the department to seek reimbursement for the person responsible.

NRS 459.840 provides for expenditure of money in the fund for the management of storage tanks to pay for response to or cleanup of a release from a tank. The department is directed to seek reimbursement from the responsible party.

NRS 590.830 creates the fund for cleaning up discharges of petroleum in the State treasury. The division administers the fund.

- Division of Emergency Management, Department of the Military
The division coordinates Federal support including solicitation of funds for recovery efforts.
- State Fire Marshal Division, Department of Commerce
The division is authorized in some cases, and requested in others, to assist in evaluating a building's suitability for reoccupation following an emergency or fire.
- Health Division, Department of Human Resources
In the event of leakage or spill of radioactive waste during transport, an officer designated by the division may order the leaked or spilled waste to be cleaned up, at the expense of the shipper, broker, carrier or other person determined responsible by the division.
- Nevada's Department of Transportation
The department's maintenance vehicles and equipment may be used to assist in cleanup if necessary.
- Local Agencies
Certain entities (for example, a county health department) may take responsibility locally for ensuring that cleanup occurs.

NRS 459.770 authorizes a city or county to adopt an ordinance to recover incurred cleanup costs from the person responsible for the spill or accident.
- State Emergency Response Commission (SERC)
The SERC is charged with administering the contingency account for hazardous materials. NRS 459.755 allows money from the account to be expended for response or cleanup if the responsible party does not act promptly or appropriately.

DM/11p;Hazmat,X1

APPENDIX C

Memorandum dated May 4, 1992, to Denice L. Miller,
Senior Research Analyst, from Jolaine Johnson, P.E.,
Chief, Bureau of Chemical Hazards Management,
Division of Environmental Protection,
State Department of Conservation and Natural Resources,
titled "Comparison of SB 641 with OSHA,
MSHA and EPA standards"

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DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

123 W. Nye Lane
Carson City, Nevada 89710

May 4, 1992

MEMORANDUM

TO: Denice Miller, Senior Research Analyst
Legislative Counsel Bureau

FROM: Jolaine Johnson, P.E., Chief
Bureau of Chemical Hazards Management

SUBJECT: Comparison of SB 641 with OSHA, MSHA and EPA standards.

The Legislative Commission's Subcommittee to Study Laws Relating to Emergencies Involving Hazardous Materials (A.C.R. 79) has heard recommendations to repeal Senate Bill (SB) No. 641, the Chemical Catastrophe Prevention Act, which was passed by the Legislature during its 1991 session. The recommendations are based upon the opinion that other laws address the requirements established by SB 641. For your information, I have performed a review of these laws and compared them to SB 641.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

29 CFR, Section 1910.119. Process safety management of highly hazardous chemicals.

This section establishes requirements for preventing or minimizing the consequences of catastrophic releases of toxic, reactive, flammable or explosive chemicals. Releases may result in toxic, fire or explosion hazards.

The OSHA standard applies to facilities which have processes which involve specified chemicals at or above threshold quantities. The chemicals and quantities specified are essentially identical to the highly hazardous substances and quantities designated by SB 641. In addition, the OSHA standard applies to flammable liquids

Memorandum to Denice Miller, LCB
Comparison of SB 641 with other laws.

or gases in quantities of 10,000 lbs. or more in a process. The OSHA standard does not apply to retail facilities, oil or gas well drilling or servicing operations or normally unoccupied remote facilities. In addition the OSHA standard does not apply to mining operations, as those operations are regulated by the Mine Safety and Health Administration (MSHA). To our knowledge, MSHA has no program which is substantially equivalent to the OSHA standard or to SB 641. Thus, if SB 641 were repealed, the mining industry would not be required to perform safety reviews or hazards assessment relating to highly hazardous substances.

The significant differences in applicability between SB 641 and the OSHA Standard are:

1. SB 641 regulates facilities which produce, use, store or handle the listed substances, including retail and unoccupied, remote facilities, whereas the OSHA standard applies only to facilities which process the substances.
2. The OSHA standard includes facilities which process flammables and explosives.
3. SB 641 includes mining operations which are not regulated for hazards assessment and mitigation by OSHA or MSHA.

Basically, the OSHA standard requires:

- Employee participation.
- Written process safety information.
- Documented process hazard analysis.
- Written operating procedures that provide clear instructions for safely conducting activities.
- Employee training and documentation pertaining thereto.
- Contract employee information and training.
- Procedures to assure mechanical integrity of critical process equipment.
- Hot work permits.
- Written procedures to manage changes of process or process equipment.
- Incident investigations by the employer.

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- Emergency planning and response.
- Compliance audits by the facility.

SB 641 requires regulated facilities to submit to NDEP a report on safety and a process hazards analysis. The process hazards analysis under SB 641 includes assessment of many of the other elements required by OSHA as listed above.

The primary differences between the requirements of SB 641 and the OSHA standard are:

1. SB 641 requires that the regulated facility submit the reports and hazards assessments to NDEP for evaluation. NDEP must approve of and adopt the plan and scheduling to mitigate the hazards identified during assessment. Adherence to the mitigation plan by the facility will be checked through reporting and inspection by NDEP each year.

Whereas, the OSHA standard requires that the facility comply with the requirements but not submit the documents for review. The Division for Enforcement of Industrial Safety and Health (DEISH) will check facilities for compliance with the standards during scheduled inspections or upon incident.

2. The schedules for completion of the elements of each program are different. The OSHA standard is effective for all elements on about May 25, 1992, with the exception of the process safety information and the process hazards analysis. Each facility must prioritize the hazards at its facility and perform the analyses as follows:

25% of process hazards analysis by May 26, 1994;
50% of process hazards analysis by May 26, 1995;
75% of process hazards analysis by May 26, 1996; and
All process hazards analysis by May 26, 1997.

SB 641, in contrast, requires that facilities present their report on safety at the facility by July 1, 1992, and every 3 years thereafter. The hazards assessment must be scheduled by NDEP on the basis of a priority system which accounts for the amount of highly hazardous substances present and the number of persons that could be impacted by a release from the facility. That is, NDEP must prioritize all of the facilities and set the schedule for assessments accordingly. After its initial

Memorandum to Denice Miller, LCB
Comparison of SB 641 with other laws.

assessment, each facility must reassess hazards every 5 years.

3. The hazards analyses, and any other documents, submitted in accordance with SB 641, including the proposed mitigation plan, become public information. Under some circumstances, a public hearing is required prior to adoption of the mitigation plan. The OSHA standard has no such requirement for public information or involvement in regards to the process safety or hazards assessments performed by the facility.
4. SB 641 establishes authority for the Governor to appoint a committee to oversee the management of risks in a facility or group of facilities which may represent a catastrophic threat to public health and safety.

U.S. ENVIRONMENTAL PROTECTION AGENCY STANDARDS

The Clean Air Act of 1990 has also established requirements for the Prevention of Accidental Releases at facilities. By November, 1993, the U.S. Environmental Protection Agency (EPA) must promulgate reasonable regulations for the prevention and detection of accidental releases of regulated substances. The list of regulated substances must be promulgated by November, 1992, and must include some of the substances which are listed by SB 641 as highly hazardous substances. However, it is unclear how much overlap will occur between the EPA list of substances and the list of highly hazardous substances regulated by SB 641 and the OSHA standard.

The accident prevention regulations shall include provisions for hazards assessments, similar to the assessments required by SB 641 and the OSHA standard. The Clean Air Act of 1990 establishes requirements for public involvement and safety reports similar to the requirements. However, a full evaluation of the overlap of SB 641 and the Clean Air Act cannot be completed until the EPA promulgates the regulations as required by the Act.

The Clean Air Act includes provisions for a state to become authorized for enforcement and oversight of the Act. NDEP has proposed legislation for the next legislative session which is necessary to receive this authorization from the U.S. E.P.A. Once authorization is granted, SB 641 and the Clean Air Act requirements will both be under the regulatory jurisdiction of NDEP, which will allow for full coordination.

The Superfund Amendments and Reauthorization Act of 1986 (SARA) establishes reporting and community awareness requirements

Memorandum to Denice Miller, LCB
Comparison of SB 641 with other laws.

on facilities which have designated quantities of "extremely hazardous substances". The list of extremely hazardous substances of SARA and the list of highly hazardous substances of SB 641 are different. Some chemicals, however, appear on both lists, but with different threshold quantities.

Under the SARA requirements, facilities must inform their Local Emergency Planning Committee (LEPC) of the presence and quantities of extremely hazardous substances. The LEPC must then make the information available on public request. There are no requirements under SARA for the facility to prepare or present reports on safety or hazards assessments.

SUMMARY

The above information provides a very general comparison between the requirements established by SB 641 and these other laws. Additional information or more detailed comparison can be provided on request.

The SB 641 legislation has acknowledged the potential for overlapping legal requirements. NRS 459.3820 requires NDEP to review the rules, regulations, standards, codes and safety orders of other governmental entities and agencies of the state responsible for minimizing risks to persons and property posed by regulated facilities and hazardous substances to ensure that they are sufficient to carry out the provisions of the Act. If NDEP and any other governmental entity or agency of the state have coexisting jurisdiction over the regulation or regulated facilities or hazardous substances located at such facilities, NDEP has the final authority to take such actions as are necessary to carry out the provisions of the Act.

Initial review of these other standards, etc., has indicated that SB 641 is broader in scope and applicability than the other standards in terms of protection of public health and safety. Significant differences include a required review of the hazards assessment by the regulatory agency and public information and involvement. The requirements of other governmental entities will be coordinated with the requirements of SB 641 to the greatest extent possible, recognizing some difficulties across agency jurisdictions.

APPENDIX D

Memorandum dated May 1, 1992, from Bob Andrews,
Executive Director, State Emergency Response
Commission, to Assemblyman Joseph E. Dini, Jr.,
Chairman of the A.C.R. 79 Subcommittee, titled
"ACR 79 Workgroup Study On Reporting/Fees
Consolidation And Telecommunications"



EMERGENCY RESPONSE COMMISSION

555 Wright Way
Carson City, Nevada 89711-0900

MAY 1, 1992

TO: ASSEMBLYMAN JOSEPH DINI, CHAIRMAN, ACR 79 COMMITTEE

FROM: BOB ANDREWS, EXECUTIVE DIRECTOR, STATE EMERGENCY
RESPONSE COMMISSION

SUBJECT: ACR 79 WORKGROUP STUDY ON REPORTING/FEES
CONSOLIDATION AND TELECOMMUNICATIONS

The ACR 79 workgroup wishes to extend their thanks to you for giving us the opportunity to submit the results of our study to your committee.

Special thanks are in order for Assemblyman Dave Humke and Denice Miller who supported the work group's efforts with valuable direction and advice, Ray Bacon of the Nevada Manufacturer's Association who chaired the reports/fees subgroup, Karan Kavanau of State Data Processing who chaired the subgroup on telecommunications, and above all, the members of these workgroups who contributed considerable time and much expertise to this project and whose names appear as addendum to this report.

Details of the study are attached. A summary follows:

REPORTING/FEES

The work group felt that the issue of consolidated reports and fees to ease the administrative burden on regulated industry is of sufficient urgency to merit immediate and continuous efforts to this end. Accordingly, it submits its recommendations in two phases:

PHASE ONE:

Immediate and continuous work on the part of the involved agencies to proceed with report and fee consolidation on a limited scale for the purpose of gaining the experience necessary for large scale operations. This additionally provides the agencies with the opportunity to work out the "bugs" and fine tune the process before scaling up.

The consolidated report format is an on-going State Emergency Response Commission priority for which the State Fire Marshal's Office has acted as lead agency. At the present time the consolidated format incorporates reporting based on the Uniform Fire Code as required by the State Fire Marshal's Office, SARA Title 3 data for which the State Emergency Response Commission is responsible, and elements of the Chemical Catastrophe Prevention Act(SB 641) administered by the Environmental Protection Division.

This consolidated report format is currently being implemented for the first time and initial experience is being gained that will be used to improve this process both for the regulated industry and the administering agencies. The only fees being collected presently under this report are those of the Fire Marshal's Office. It is anticipated that State Emergency Response Commission fees will be included under this format in 1993.

The State Hazardous Materials Information Repository resides at the Dept. of Motor Vehicles and Public Safety on mainframe computer which is linked to 24 hour dispatch centers around the state. Emergency Management, the Fire Marshal's Office, Highway Patrol, and Environmental Protection are the principal state agencies that work with this consolidated report data. Initially, these will be the primary agencies that will be coordinating consolidation efforts along with the State Emergency Response Commission of which they are all members.

Phase One would last from one to two years depending upon how quickly we could gear up to the larger operations of Phase Two.

PHASE TWO:

Phase Two will require legislative action. It is the recommendation of the work group that legislation be passed designating the State Dept. of Taxation as the agency of record for handling consolidated reporting

and fees collection. In the interest of effective operations it will be necessary to build this consolidated system incrementally over time. Our recommendation is that Phase Two begin with an easily manageable number of fees with commonality of administrative elements such as mode and payment cycle. Then, as experience is gained add to the number and types of fees that can be reasonably collected under a consolidated format.

To accomodate merger of this type of data in a single repository a common identifier or identifiers would be used beginning in Phase One. Two possibilities for such an identifier are the Federal Tax ID number and the Business License Tax ID number.

The Dept. of Taxation is the recommended agency for this project because of its experience and capabilities to deal with large amounts of data of this type and their experience with collections on a relatively large scale. The cost factor has not been identified as yet and will need to be determined by the Department if this recommendation is acceptable. The savings should be substantial over time with report and collection consolidation, and the opportunity that provides to eliminate duplication and redudancy.

TELECOMMUNICATIONS

The work group's primary concerns in the area of telecommunications were the lack of information about exisiting and projected systems regarding actual capabilities and limitations, and the proliferation of independent systems without effective coordination relative to exisiting resources, capabilities, and needs. This situation, in the opinion of the work group, has fostered unnecessary duplication, reduced efficiency, and constitutes poor use of public funds.

Accordingly, the work group recommends the following:

- 1) That the legislature create a state information management board for the purpose of coordinating information management systems development, providing advice and technical support relative to such systems, and to develop the necessary plans, policies, and procedures to support this process.

It is recommended that the board be housed administratively with State Data Processing to facilitate coordination and the necessary administrative support. It is further recommended that the board be made up of eleven members - three from the private sector, three from state agencies and appointed by the Governor, three from local government representing Clark County, Washoe County, and the rural counties, and two state legislators to represent both houses, Assembly and Senate.

It was also proposed that the cost for the board's operations could be handled by way of a small surcharge to state data processing purchases. The savings brought about through this kind of coordination would far out weigh the cost of operations within a relatively short time. The increase that would be brought about in systems efficiency for the state is another important factor to be considered.

- 2) To support the intent of recommendation #1 it is further recommended that both the legislative and executive branches of state government take whatever action is necessary to assure that proposed investments in information management technology be coordinated through the state information management board.
- 3) The work group wishes to go on record as supporting the existing state hazardous materials information repository which resides currently by statute(NRS 459) at the DMV-Public Safety on mainframe computer. The work group believes that this repository should be used as the foundation of a single information storage and communications system for hazardous materials.



NEVADA MANUFACTURERS ASSOCIATION

20 April 1992

TO: Bob Andrews, ACR79 Subcommittee on Fees & Communication

FROM: Ray Bacon, Exec. Director, NV Manufacturers Assn.

SUBJECT: Fee Consolidation

Our study of the Fee issue shows clearly that we do have a problem with many fees, with many dates, with multiple basis of collection and many agencies. First, we must note no one did anything wrong nor are they today. Most, if not all of these fees made sense when they started. It is only later looking at the total picture, we recognize the duplication and complexity.

Our group collect data on the fees related to Emergency response, control of the environment, employee safety and use of natural resources. While that is a broad area, it is all interconnected. Problems in the later three are often the basis for emergency response of the public agencies. The agencies involved in these areas include:

- Department of Agriculture
- Department of Environmental Protection
- State Fire Marshals Office
- State Emergency Response Commission
- Department of Lands
- Health Department
- Office of Emergency Management
- Nevada Highway Patrol
- Department of Transportation
- State Industrial Insurance System
- Public Service Commission
- Department of Industrial Relations
- Department of Preventative Safety
- Department of Enforcement for Industrial Safety and Health
- Department of Taxation
- Secretary of State

Many of these do not levy fees on the private sector, but all write regulations, conduct inspections, collect fees or are involved in response to emergencies at public and private operations.

780 Pawnee Street • Carson City, NV 89705 • (702) 882-6662 • FAX (702) 883-8906

The fee search is not complete, but we found over 30 fees. The basis for collection, date of collection, method of billing and tracking and the complexity of paperwork vary widely. Non-compliance with the regulations and non-payment of fees is possible because businesses don't know. Some information requested is duplicated on various reports. The numbering and control systems are incompatible and separate. There is no common element between most of the reports.

From a business viewpoint, the situation is frustrating. The administrative cost of paying the many fees, completing the paperwork and trying to keep track of the regulations is a frustration. Small businesses, in particular, find the task frustrating, because it is often the owner who must do the work. Ignorance of the law may not be a good excuse, but it is commonplace because of the volume, rate of proliferation and complexity. Compliance will likely increase, if the administrative burden is reduced.

The sub group agreed on both short term and long term goals. Short term, the report consolidation of the Fire Marshals report and NDEP is a significant step. NDEP agreed to look at consolidating their billing process with the various fees which they access on business. The proposed SERC fee will figure a way to use an existing fee structures, if possible. This will have a significant impact on a few companies. The data base is small enough for this to be a manageable start. Most of this can be done without legislative action.

The long term issue is a tax policy issue, which needs legislative action. To make real progress on fee consolidation, we need a common element for all fees and reporting forms. This has "Big Brother connotations" which makes legislators nervous. Using the company name is not a workable solution, because of different spellings, abbreviations and other related problems.

The two unique numbers which could resolve this issue are the Federal Tax ID number and the Business License Tax ID number. Neither of these is perfect, but either could be made to work. Without a common element in the data base for all fees, it is not realistic to combine fee payments. The group proposal is that the legislator adopt a statute requiring all state fees have a designated common element in their data base. This is the key step which must happen before starting computer solutions. Further, we recommend the legislature establish a goal of consolidated fee and tax collection where possible by the FY98.

ACR 79 COMMITTEE ON COMPUTERS AND INFORMATION MANAGEMENT
REPORT OF FINDINGS AND RECOMMENDATIONS
APRIL 28, 1992

INTRODUCTION

ACR 79 mandates the review of state and local agencies' ability to respond to an emergency involving hazardous materials. It also discusses a review of the fee collection process which is being studied by another committee. This report is limited to computer and information management issues only.

This Committee was charged with assessing the status, capabilities and limitations of existing hazardous material-related computer information storage and communication systems and to make recommendations for improvement.

As the Committee studied information communications between State and local government, it became obvious that the goals of ACR 79 could not be accomplished without addressing the entire, statewide communications issue. The Committee's comments about this subject are reflected under separate cover, Attachment A.

SITUATION TODAY

To help government collect, store and distribute hazardous material information, two types of systems have evolved: storage and communication. In some cases they have been developed as a single system, but not always. Storage systems currently in use include complex databases, personal computer files, and paper reports. Communication systems rely on computers, telephone, or radio.

The Committee found considerable redundancy and duplication in the (State and local) systems it reviewed. These systems do not work in concert and often overlap in function. No single system "does it all".

The Committee also found that State agencies are continuing to develop new emergency response systems without taking advantage of what has already been done by local government or other State agencies.

While the Committee did not have adequate time to develop a complete list, below are some examples of redundant systems identified at the State level:

Dept. of Emergency Management
OASIS (dial-up, stand-alone personal computer
based)

Nevada Highway Patrol (NHP)
Hazardous Material Repository with a data/voice
communication network

Division of Environmental Protection
Stand-alone personal computer

State Fire Marshal
Paper reports and CAMEO*

Consortium of Division of Environmental Protection, State
Emergency Response Commission, and State Fire Marshal
Consolidated Report

Department of Data Processing
A statewide data (information) communication
network

At the local level, even more fragmentation exists due to a lack of coordination and varying degrees of funding.

Nevada's two metropolitan areas, Washoe and Clark Counties, have the most technologically advanced systems, far exceeding anything the other counties or State have. On the other end of the spectrum, Nevada's rural counties have little or nothing and are desperate for help.

Local agencies are currently using dispatch or CAMEO or paper systems. Or they've developed "home-grown" automation that is not compatible with anything else. Or they have no system at all.

In its assessment, the Committee discovered that local government is complaining about the State imposing too many reporting requirements mandated by too many different State agencies, and about the State's tendency to mandate solutions rather than respond to needs. There doesn't appear to be any coordination within State government and it is causing duplication and frustration, especially for first responders.

GOALS

As a result of its study, the Committee believes the State must commit to the following four goals:

- To be able to send/receive/store timely hazardous material information to/from/at any point in any agency, state or local.
- To create a single hazardous material information repository/communication network and make it available to all first responders regardless of their location.

- To have a hazardous material information storage and communication system that serves each of its users as fully, economically and effectively as possible.
- To provide a single point of contact for access by the public without endangering the integrity of the information stored.

RECOMMENDATIONS

In order to achieve these goals, the Committee recommends a phased approach although much of the work can and will begin immediately through this Committee.

PHASE 1

- Rename this Committee to the "Committee on Information Management (CIM)".
- The CIM request local governments to appoint official representatives through which work can be coordinated.
- Use the NHP Repository as the foundation of a single storage and communication system, connecting through the Department of Data Processing, for both state and local government.
- Administration/Legislature take immediate steps to cease development of and expenditures for all other emergency response systems including, but not limited to, the Department of Emergency Management's OASIS.
- Identify, reorganize, realign and commit existing resources currently being expended on other systems to the NHP Repository project.
- Identify requirements for all agencies, State and local, prior to any further development (the Committee intends to do this immediately).
- The CIM meet every other month to continue its work.
- During the 67th Legislature, create legislation to:
 - Authorize the existence of the CIM (the Committee does not recommend any reassignment of State personnel at this stage).

- Administration and Legislature require CIM approval prior to funding any other state agency emergency response system(s).
- Fund the CIM as an on-going process.
- Review and amend existing legislation to alleviate contradictions.

PHASE 2

- CIM develop a long term strategic planning process and develop policies and procedures to ensure continued coordination and maximization of funding.
- CIM continue its activities as an on-going process throughout the future.
- CIM report biennially to Legislature on status, performance and needs.

Attached are letters from Verne Rosse, Deputy Administrator of the Division of Environmental Protection and Ray Blehm, State Fire Marshal, which the Committee wishes to include in this report.

The Committee members listed below will continue to meet on a regular basis to study and remedy these issues as stated under "Goals" above.

Richard Sheldrew	Department of Emergency Management
Alan Rogers	Nevada Highway Patrol
Mark Blomstrom	Department of Motor Vehicles
Ray Blehm	State Fire Marshal
Jolaine Johnson	Division of Environmental Protection
Verne Rosse	Division of Environmental Protection
Dan Berger	Department of Motor Vehicles
Pam Case	Department of Data Processing
Karen Kavanau	Department of Data Processing

ACR 79 COMMITTEE ON COMPUTERS AND INFORMATION MANAGEMENT
TELECOMMUNICATIONS IN NEVADA STATE GOVERNMENT

SPRING 1992

The term "telecommunications" means the exchange of information through technology. Regardless of whether the exchange is by telephone (voice), computer network (data), radio (microwave), teleconference (video) or fax, the result is the same: information has been sent from one point to another.

The subject of telecommunications has been confusing to Nevada state government for years as evidenced by the proliferation of independent boards, commissions, committees, and state organizations established to deal with it (see Attachment 1).

As a result, Nevada state government now consists of a myriad of islands of technology, each with its own administration, its own standards, its own support staff, and its own regulatory body.

Modern technology could tie these islands together through the use of computers into a more economical, unified network. This single communication network would require less resources than what is required today. It would also facilitate interconnectivity, standardization and compatibility, goals desired by state government for years.

Many states and private businesses have already unified their telecommunications function into a centralized information services organization yet Nevada state government resists. Despite at least a dozen studies (see Attachment 2) over the past two decades that all pointed to the need for consolidation, despite the fact that the technology is already in place to make it happen, the islands remain.

Unfortunately, like any other form of change, the mere mention of unification strikes fear in the hearts of some state administrators. Most of them don't understand the issue and are afraid to admit it. They believe they will lose something (power, territory, their jobs). And some depend on advice from special interest groups whose primary objective may not be efficiency in government.

The Committee unanimously supports the unification into a single agency: the Department of Data Processing (DDP). Information and information management are at the very core of DDP's business. By statute, the Department is already recognized as the guiding force for computers and computer-related activities. And computers are the foundation of any communication network.

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CONFLICTING MANDATES

At the present time there are several statutes and directives that have addressed communications in various degrees. These statutes and directives all take a slightly different approach, and address different aspects of state and local government communications.

NRS 414. defines Emergency Management, defines communications as a function of Emergency Management, and directs the Director to "...carry out the program for Emergency Management in this state." "He shall coordinate the activities of all organizations in the State,..." It also states in NRS414.210 subsection 8 "establish and maintain a system of communications throughout the State for operations relating to searches and rescues;..."

NRS 459.745 calls for a study for the development of a statewide system of radio communications for use by political subdivisions and state and local entities for emergency management for responding to an emergency.

NRS 232.170(d) creates a telecommunications division within General services. Under NRS 233F.270 paragraph 1, "the division,..., shall plan, implement, and administer a state telecommunications system." Paragraph 2, "The system must be integrated and may include services between the state and any cities, counties, and schools" However, NRS 233F.280 complicates and duplicates the Directors efforts by exempting the actions and duties of the State Communications Board and communications supervision of the Nevada Highway patrol division of the Dept of Motor Vehicles and Public Safety.

NRS 233F creates the State Communications Board, and defines and limits its responsibility to the State Microwave system, but exempts the telecommunications functions of the Dept. of General Services.

The Governors's "Emergency Management Administrative Order 2" directs the Division of Emergency Management to develop plans for a coordinated statewide communications network, utilizing all existing systems in time of emergency. The director shall be assisted by those agencies who have communications responsibilities under the State Plan.

"Emergency Management Administrative Order 12" mandates the Director of the Dept. of Transportation "...prepare State emergency plans and develop preparedness programs designed to provide emergency communications..." He is further directed to "Assist by providing, where feasible, communications facilities and equipment to establish an integrated statewide emergency communications capability.

The Federal Communications Commission has adopted Docket 87-112 which asks for a study to develop a national telecommunications plan dealing with public safety two-way radio needs. This study is to consider local, state, and federal agency communications and plan for interoperability among them. In Nevada, the Div. of Emergency Management Communications Engr. has been appointed chairman for this effort.

242.071 Legislative declaration; purposes of department of data processing.

1. The legislature hereby determines and declares that the creation of the department of data processing is necessary for the coordinated, orderly and economical processing of data in state government, to insure economical use of equipment and to prevent the unnecessary proliferation of equipment and personnel among the various state agencies.

2. The purposes of the department are:

(a) To perform data processing for state agencies.

(b) To provide technical advice but not administrative control of data processing within the several state agencies, county agencies and the governing bodies and agencies of incorporated cities and towns.

(Added to NRS by 1965, 972; A 1969, 933; 1973, 352; 1981, 1143)-(Substituted in revision for NRS 242.020)

242.131 Services provided for agencies and elected officers of state: Negotiation; withdrawal; contracts to provide services.

1. The department shall provide state agencies and elected state officers with all of their required design of systems, programming and use of equipment for data processing, and all agencies and officers must use those services and equipment, except as provided in subsection 2.

242.151 Director to advise agencies. The director shall advise the using agencies regarding:

1. The policy for data processing of the executive branch of government, as that policy relates but is not limited, to such items as standards for systems and programming and criteria for the selection, location and use of data processing equipment in order that the data processing needs of state agencies and officers may be met at the least cost to the state;

2. The procedures in performing data processing; and

3. The effective administration and use of the computer facility, including security to prevent unauthorized access to data and plans for the recovery of systems and application after they have been disrupted.

(Added to NRS by 1969, 930; A 1981, 1147; 1989, 2154)

242.171 Responsibilities of department; review of proposed applications of data processing.

1. The department is responsible for the applications of data processing, for designing systems and placing them in operation, and for the writing, testing and performance of programs, for the state agencies and elected state officers which are required to use its services. The department is also responsible for those applications which it furnishes to state agencies and officers after negotiation.

ACR 79 COMMITTEE ON COMPUTERS AND INFORMATION MANAGEMENT
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LIST OF STUDIES ON TELECOMMUNICATIONS

- * Gov. Laxalt's Commission on Telecommunications
- * Gov. O'Callahan's Commission on Telecommunications
- * Emergency Medical System Study
- * Consolidation Report of 1978 by John Etchemandy
- * State Communications Board (NRS 233.f)
- * State Communications Board Technical Advisory Group (NRS 233.f)
- * 1983 Search and Rescue Communications Study (Legislative study)
- * Fire Chiefs Association Communications Subcommittee (on going)
- * Nevada Division of Forestry (NIMMS) Communications Committee
- * Tahoe Regional Fire Chiefs Committee
- * ACR-68 Study of 1986
- * State Emergency Response Commission Communications Study (AB 719, 1987 Legislature)
- * SB 247 (Created a Director of Telecommunications within General Services NRS 232.170.d. Occurred 1987)

PETER G. MORROS
Director

STATE OF NEVADA
BOB MILLER
Governor

L. H. DODGION
Administrator

Administration (702) 687-4670
Air Quality 687-5065
Mining Regulation and Reclamation 687-4670
Waste Management 687-5872
Federal Facilities 687-3880



Wastewater Treatment Services 687-5870
Water Permits and Compliance 687-4670
Water Quality Planning 687-4670
FAX 885-0868

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

123 W. Nye Lane
Carson City, Nevada 89710

April 24, 1992

Karen Kavanau, Director
Department of Data Processing
Blasdel Building, Room 304
Carson City, NV 89710

Dear Karen:

At your request I have considered the question of computers and information management needs and capabilities as they relate to hazardous substances. This letter addresses recommendations regarding capabilities and opportunities for integration of systems from the perspective of the Nevada Division of Environmental Protection (NDEP).

As you are aware, the NDEP has recently coordinated with the State Emergency Response Commission (SERC), the State Fire Marshal (FM) and the Division of Emergency Management to consolidate the reporting requirements for facilities which handle, store, etc. hazardous substances. The information collected by the State Fire Marshal is required for the involved agencies to regulate the facilities per their respective legislative mandates. In addition, it is critical that the information collected should be made available to local emergency responders throughout the State in order that those responders are fully apprised of the hazardous substances present at a facility during an incident. Presently, the information is available only in hard copy with no clear direction toward making the information available electronically to the regulating agencies or to the responding agencies.

Nevada Revised Statute (NRS) 459.715 establishes a repository for information concerning hazardous materials in Nevada within the Nevada Highway Patrol Division (NHP) of the Department of Motor Vehicles and Public Safety. Information which the SERC must collect regarding hazardous substances is submitted to that repository. The NDEP has, on occasion, accessed information regarding facilities with hazardous substances from the NHP information repository. We have found the system well organized

Karen Kavanau, Director
Department of Data Processing
April 24, 1992
Page 2

and responsive to meet our limited needs. However, we found that the information was not entirely up-to-date. We believe that this or any system of information management must have adequate resources to maintain accurate information.

We trust that your experienced staff is fully capable of assessing the capability of the NHP system and other systems which have been identified, or perhaps are to be developed, for hazardous substance information management. We recommend that the assessment include an evaluation of including the consolidated report information in order that all concerned agencies may access the information to meet their own requirements. In addition, we believe that the information must be made readily available to local entities which take on responsibilities during emergencies involving hazardous substances at facilities. We suggest that the system also be able to provide information regarding the hazardous substances identified including specific hazards and appropriate response requirements. This provision is particularly important to the rural areas of the State which may not have adequate emergency response information or resources.

The NDEP maintains several data bases which may also be useful to other involved State and local agencies, including, underground storage tanks, hazardous waste management information, toxic release information, spill reports, air release permit information, etc. Perhaps these systems should be further considered in regards to an interagency information network.


We believe that with the guidance of the Department of Data Processing, the information systems presently disbursed throughout several agencies can be integrated. Perhaps legislative direction for such coordination is required to ensure that integration to the greatest extent possible is accomplished.

Finally, we request that the assessment include an evaluation and recommendation for personnel resources to implement and maintain the hazardous substance information system. These required resources should be evaluated for whichever lead agency is assigned this responsibility as well as all of the other agencies whose information is integrated into the network.

Karen Kavanau, Director
Department of Data Processing
April 24, 1992
Page 3

We will be happy to provide further information or assistance regarding these recommendations at your request. Please contact me or Jolaine Johnson, Chief Bureau of Chemical Hazards Management at 687-5872.

Sincerely yours,



Verne Rosse, P.E.
Deputy Administrator

VR/JAJ:klh

cc: L.H. Dodgion



STATE OF NEVADA
DEPARTMENT OF COMMERCE
STATE FIRE MARSHAL DIVISION
Capitol Complex
Carson City, Nevada 89710

BOB MILLER
Governor

LARRY D. STRUVE, Director
Department of Commerce

RAY E. BLEHM, Jr., Fire Marshal
State Fire Marshal Division
(702) 687-4290
Fax: (702) 687-5122

April 18, 1992

To: ACR 79 Subcommittee and Working Groups

From: Ray Blehm, State Fire Marshal

A handwritten signature in cursive script, appearing to read "Ray Blehm".

Subject: Position Paper on Selected Topics

Working group on consolidation of fees:

It seems that everyone is in agreement that there are a number of fees that deserve being included in the effort to improve the manner in which they are collected. There are however several approaches which can be followed in any effort targeted at fee and associated information collection programs. Some of the issues are:

1. Should fees and related data go their separate ways? That is to have the fees all go to one agency and data go to individual agencies for use in training, enforcement permitting and other uses.
2. Should fees and data go to a central agency charged with the responsibility of entering the information and accounting for collection and distribution of revenue through a system that electronically makes the information available to those agencies with a need for access?
3. Is centralization of this effort cost effective or at least worth an increased level of spending because of improved service to the public and the businessman?

4. What criteria should be used in an effort to consolidate forms and to create data bases of information that would minimize the number of times the state would contact businesses for the same or similar data?

5. Can state and local government be brought into a cooperative effort to reduce further the number of contacts and can such a program be successful in having both state and local entities enter the data and collect some or all of the fees at the local level and share these revenues in an appropriate manner or will compartmentalization continue to be the standard for this kind of effort?

6. How can we provide necessary information to the responders to incidents in an efficient manner prior to response for training purposes and during the response phase to maximize their safety as well as the publics?

There are more questions that can be asked but these illustrate some of the ones I believe are more important. What then can be done to drive this effort forward and not have it fade as soon as a new set of questions divert attention to these matters.

1. Statutory provisions could be enacted to require that any state or local fee collected must conform to certain criteria:

A. Records concerning the fee must contain common identifiers - One based on site or location and a second to identify the proprietary entity as a business or governmental agency. This would allow records to eventually be merged into a central repository or accessed by other authorized agencies in a decentralized system.

B. One agency would be designated as responsible for maintenance of a master listing of fees and base information about them so that administrative and legislative oversight of the fee management program can occur.

2. A process for review of the fees and related data uses for consolidation needs to be implemented that will provide for core

agencies to meet with the sponsoring agencies and others with related data needs to prepare to merge them into a central processing and data collection system.

Working group on computers (and related issues such as telecommunications and interconnectivity of systems)

1. Are we duplicating efforts in the development of state systems and local systems? There seems to be general agreement that systems and computerization efforts have often duplicated efforts and further that local government is often more advanced in technological ability than the state.
2. Is there a technological fix? Yes, if a statutory mechanism can be put in place to provide requirements that would control development of systems and provide for a thorough and competent review of new and existing systems. One of the biggest hurdles is confidential data versus open data which should be available to agencies with a need to know and even free access to certain types of data by persons, businesses and other agencies outside of government and Nevada.
3. Protocols and other related rules need to be developed which would control access, use, availability, inter-connectivity and security of data. A group similar in nature to the current technical committee should be charged with development tasks and master planning efforts in this area.
4. Short term goals should be to move forward with the effort to consolidate Haz Mat storage data collection efforts and to expand the available data to response agencies to include the appropriate process safety data. Further efforts need to be made to eliminate duplicative efforts while enhancing availability among agencies of necessary information.
5. Mid term goals should be to enact legislation which would create a climate in which further efforts to improve the state and local cooperation on matters of this sort can happen.

6. Long term goals of master planning, implementation and evaluation procedures need to be developed so that maximum economies and efficiencies can be built into the system development efforts at the state and local level.

MEMBERS/PARTICIPANTS OF ACR 79 WORK GROUP

The following are the members and participants of the ACR 79 workgroup study who contributed considerable time and expertise in the development and recommendations of this report:

Bob Andrews	State Emergency Response Commission
Ray Bacon	Nevada Manufacturers Association
Larry Bennett	Southern Pacific Transportation Co.
Dan Berger	Dept. of Transportation
Ray Blehm	State Fire Marshal's Office
Mark Blomstrom	Highway Patrol/State Communications Bd.
Pam Case	Dept. of Data Processing
Jeff Chilton	Dept. of Data Processing
John P. Comeaux	Department of Taxation
Kathy Esparza	Emergency Management
Hoy Frakes	TIMET Corporation
Jolaine Johnson	Environmental Protection
Karen Kavanau	Dept. of Data Processing
Assemblyman Dave Humke	Nevada State Legislature
Denice Miller	Legislative Counsel Bureau
Alan Rogers	Dept. of Motor Vehicles/Public Safety
Verne Rosse	Environmental Protection
Richard Sheldrew	Emergency Management
Frank Siracusa	Emergency Management

APPENDIX E

Memorandum dated May 21, 1992, from Eugene L. Williams,
Assistant State Fire Marshal, Department of Commerce,
to Denice L. Miller, Senior Research Analyst,
titled "Regional response team concept"



STATE OF NEVADA
DEPARTMENT OF COMMERCE
STATE FIRE MARSHAL DIVISION
Capitol Complex
Carson City, Nevada 89710

BOB MILLER
Governor

LARRY D. STRUVE, *Director*
Department of Commerce

RAY E. BLEHM, JR., *Fire Marshal*
State Fire Marshal Division
(702) 687-4290
Fax: (702) 687-5122

MEMORANDUM
MAY 21, 1992

TO : Denise Miller, Legislative
Counsel Bureau

From : Eugene L. Williams, Assistant
State Fire Marshal

Re : Regional response team concept.

Please accept this revised proposal. I am sorry that it comes at a late date. We received added information yesterday from the National Fire Protection Association that would indicate that the response equipment that we planned would be less than the criteria that is planned for such equipment. The NFPA is preparing standards for response vehicles for Hazardous Materials Incident response that is much more stringent than what we proposed. Those standards are not in effect at this time but, when developed and adopted, could put the State of Nevada in a poor position for liability purposes if an accident should occur. Instead of a trailer unit a motorized vehicle with a utility box would be required. In that case we would propose a two unit (motorhome and response vehicle) regional package at an added cost of about \$190,000 for each region. I have updated the proposal attached.

If costs are a real burden, the proposal could be divided into a phased program, with the costs spread over a two or three year period.

Eugene L. Williams

REGIONAL RESPONSE TEAM CONCEPT STATE FIRE MARSHAL DIVISION

CONCEPT:

Three response units carrying equipment with a mobile command center, fully equipped and stationed in three regions of the state. Manned by trained and certified local responders under the direction of a Deputy State Fire Marshal. Team members would be delivered to the scene of an incident. Local authority or the Deputy State Fire Marshal would bring the vehicle(s) and maintain the Command Post and control of the incident through final cleanup. This will provide a person with investigative and evidence collection capabilities as well as the fire and hazardous materials incident background on the scene.

Program costs are: 1. The initial cost of the vehicles and equipment; 2. The costs for replacement of dated materials annually; 3. The costs for maintenance and operation of the vehicles; 4. Travel and per diem expenses for team members; 5. The costs for contracting for the clean-up of materials; 6. The costs for the garage rental or construction for the vehicles and equipment; 7. The personnel costs for three employees to supervise the program, maintain the team capabilities, maintain the equipment and respond to the incident.

Most of the costs will be related to specific incidents and those costs will be paid by the owner or transporter of the materials. However, some incidents will be without a known person or company that could be billed and will require that an incident account be established from state funds, probably in the contingency fund of the State Emergency Response Commission per the Statute, for disbursing funds for that use. Recovery would then be through the State Attorney General Deputy and directed to the contingency fund whenever possible.

Initial costs are :

Region I, Northwestern Nevada.

1. Vehicle: 24 foot motorhome command vehicle, equipped with a generator, mobile radios on NHP and a programmable VHF frequency, portable radio units for scene use, office quarters, and fully self-

contained to serve as housing for shift work of team members. COST: APPOX. \$40,000.

2. Garage space: Butler building with overhead gas heater, three bays, storage area for suits and materials, insulated, with possible expansion in the future for other training vehicles used at the training center. COST: APPOX. \$120,000.

3. Response vehicle and haz mat equipment: Utility body on vehicle chassis for the storage of the various tools, suits, SCBAs, generators, compressors and miscellaneous materials needed at the scene of an incident. Equipment cost \$276,000. Response vehicle cost \$270,000. COST: APPOX. \$546,000

4. Permanent personnel costs:	Deputy State Fire Marshal	\$26,380
	Benefits	<u>10,429</u>
	Total	\$36,809
	Overtime costs	<u>\$18,300</u>
	Total	\$55,109
	Deputy Attorney General	\$67,000

5. Salary, travel and per diem for five personnel per year:

Salary:

four contract members @ \$15 /hr., 24 hr./incident
at work. 40 incidents per year. \$ 57,600

Travel: to 40 incidents @150 miles ea @.24/Mi. for
four members.(\$1,440 plus one M.P. car@\$4,200) \$ 5,640

6. Operating costs:	Office supplies	\$ 400
	Vehicle Maint.	\$9,000
	Haz.Mat. supplies	\$7,500
	Telephone and postage	\$1,000
	Contract services	\$ 500
	Rent(office)	\$1,900
	Utilities(heat garage)	\$2,000
	TOTAL	\$20,500

SUMMARY OF COSTS: REGION I

SALARIES: \$179,709

TRAVEL: 5,640

OPERATING: 20,500

CAPITAL EXP. 706,000 INCLUDES A ONE-TIME GARAGE STRUCTURE
AT THE STEWART FACILITY.

TOTAL FIRST YEAR COST: \$911,849

ESTIMATED ANNUAL COST(before recovery): \$202,849

REGION II; NORTHEASTERN NEVADA

1. Vehicle: Motorhome, same as region I. \$40,000

2. Garage. No request.

3. Response vehicle and equipment \$546,000

4. Permanent Salary. One Deputy State Fire Marshal \$55,109
with estimated overtime.

5. Salary, Travel and per diem for team. Same as
Region I:

Salary	\$57,600
Travel	\$ 5,640

6. Operating costs:	Office supplies	\$ 400
	Vehicle Maint.	\$9,000
	Haz.Mat. supplies	\$7,500
	Telephone and postage	\$1,000
	Contract services	\$ 500
	Rent (Garage&Office)	\$5,000
	Utilities	\$2,500

TOTAL \$25,900

SUMMARY OF COSTS: REGION II

SALARIES: \$112,709

TRAVEL 5,640

OPERATING 25,900

CAPITAL EXP. 546,000

TOTAL FIRST YEAR COST: \$690,249

ESTIMATED ANNUAL COST(before recovery): \$144,249

REGION III, South Central Nevada.

1. Vehicle: Motor home. Same as Region I \$40,000

2. Garage. No request.

3. Response vehicle and equipment \$546,000

4. Permanent salary. One Deputy State Fire Marshal \$55,109
with estimated overtime.

5. Salary, Travel and per diem for team. Same as
Region I:

Salary \$57,600

Travel \$ 5,640

6. Operating Costs: Office supplies \$ 400
Vehicle Maint. \$9,000
Haz.Mats. supplies \$7,500
Telephone & Postage \$1,000
Contract services \$ 500
Rent (Garage&Office) \$5,000

Utilities (heat)	\$2,500	
TOTAL		\$25,900

SUMMARY OF COSTS: REGION III

SALARIES: \$112,709

TRAVEL: 5,640

OPERATING: 25,900

CAPITAL EXP. 546,000

TOTAL FIRST YEAR COSTS: \$690,249

ESTIMATED ANNUAL COST(before recovery): \$144,249

SUMMARY OF PROPOSAL

	REGION I	REGION II	REGION III
SALARY:	\$179,709*	\$112,709	\$112,709
TRAVEL:	5,640	5,640	5,640
OPERATING	20,500	25,900	25,900
CAPITAL EXPEND:	706,000**	546,000	546,000
<hr/>			
SUBTOTALS	\$911,849	\$690,249	\$690,249
GRAND TOTAL:	\$2,292,347		

This proposal would provide for the purchase of the capital equipment and supplies, hiring of the personnel and formation of the teams, and the placement of the team's equipment in the rural areas and Carson City. The operations budget would be established in the State Fire Marshal Division. A fund would be established within the Contingency fund of the State Emergency Response Commission for the payment of costs related to response to incidents within the state. Recovery of funds would be accomplished by a Deputy Attorney General through normal billing or court procedures. The fund could be enhanced, through request of the Interim

Finance Committee, whenever incidents depleted the SERC account.

APPENDIX F

Memorandum dated June 3, 1992, from Denice L. Miller,
Senior Research Analyst, to the Chairman and Members of the
Legislative Subcommittee to Study Laws Relating to
Emergencies Involving Hazardous Materials, titled
"Environmental Consultant Certification and
Entities Providing Information or Consultation
to Public Agencies Free of Charge"

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710
Fax No.: (702) 687-5962

LEGISLATIVE COMMISSION (702) 687-6800
JOHN M. VERGIELS, *Senator, Chairman*
John R. Crossley, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 687-6821
MATTHEW Q. CALLISTER, *Assemblyman, Chairman*
Daniel G. Miles, *Fiscal Analyst*
Mark W. Stevens, *Fiscal Analyst*



JOHN R. CROSSLEY, *Director*
(702) 687-6800

Wm. GARY CREWS, *Legislative Auditor* (702) 687-6815
ROBERT E. ERICKSON, *Research Director* (702) 687-6825
LORNE J. MALKIEWICH, *Legislative Counsel* (702) 687-6830

June 3, 1992

MEMORANDUM

TO: Chairman and Members, Legislative Subcommittee to Study
Laws Relating to Emergencies Involving Hazardous
Materials (A.C.R. 79)

FROM: Denice L. Miller, Senior Research Analyst

SUBJECT: Environmental Consultant Certification and Entities
Providing Information or Consultation to Public
Agencies Free of Charge

Enclosed is a letter addressed to Chairman Joseph E. Dini, Jr., from Jolaine Johnson, Chief of the Division of Environmental Protection's (DEP) Bureau of Chemical Hazards Management, regarding the environmental consultant certification requirement when information or consultation regarding a hazardous materials incident is provided free of charge.

At the A.C.R. 79 meeting of January 13-14, 1992, staff was directed to send a letter to the State Environmental Commission (SEC) regarding the regulation (*Nevada Administrative Code* 459.9719) adopted pursuant to *Nevada Revised Statutes* [NRS] 459.500.

The SEC addressed the issue at its April 16, 1992 meeting. Verne Rosse, Deputy Administrator of DEP, requested that the commission approve an advisory opinion that states that NAC 459.9719 does not apply to information or consultation provided free of charge to an agency involved in emergency response. The SEC voted unanimously to adopt such an advisory opinion.

I reviewed the enclosed letter with Steven J. Coburn, Senior Deputy Legislative Counsel. Mr. Coburn is of the opinion that because the regulation has been variously interpreted by different entities, the subcommittee may still wish to consider Recommendation No. 44 of the work session document. This

recommendation would amend NRS 459.500 to clarify that a business may offer free consultation and advice to public agencies regarding hazardous materials incidents without obtaining certification from DEP.

Please contact me at 687-6825 if you have any questions.

DM/llp;hazmat,m21
Enc.

PETER G. MORROS
Director

STATE OF NEVADA
BOB MILLER
Governor

L. H. DODGION
Administrator

Administration (702) 687-4670
Air Quality 687-5065
Mining Regulation and Reclamation 687-4670
Waste Management 687-5872
Federal Facilities 687-3880



Chemical Hazards Management 687-5872
Water Pollution Control 687-4670
Water Quality Planning 687-4670
FAX 885-0868

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane
Carson City, Nevada 89710

May 29, 1992

Assemblyman Joseph E. Dini, Jr.
Chairman
Legislative Commission's
Subcommittee to Study Laws Relating to
Emergencies Involving Hazardous Materials (ACR 79)
c/o Legislative Counsel Bureau - Research Division
Capitol Complex - Legislative Building
Carson City, NV 89710

Dear Assemblyman Dini:

During a previous meeting of the ACR 79 Subcommittee, you requested that the Nevada Division of Environmental Protection (NDEP) review the requirements for certification of certain environmental consultants for applicability to certain emergency response assistance activities by entities such as Sierra Pacific Power Co., which are not paid for such services.

Based upon your request, the NDEP has received an advisory opinion by the State Environmental Commission (SEC) regarding such applicability.

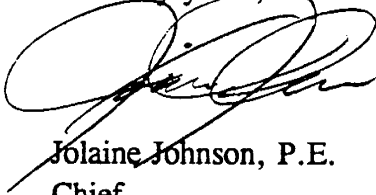
For your reference, I have attached a copy of the request for opinion to the SEC and an excerpt from the recorded minutes of the SEC hearing during which the issue was considered. In summary, the SEC has issued an opinion that NAC 459.9719 does not apply to information or consultation provided at the request of an agency responsible for emergency response by any person who is not being paid a fee

Letter to
Assemblyman Joseph E. Dini, Jr.
Chairman
May 29, 1992
Page 2

for such information or consultation or for other services related to that response. This would exclude from certification requirements services such as advice which Sierra Pacific Power Co. would provide to emergency response entities regarding substances familiar to their operations such as PCB's .

Please contact me at 687-5872 should you have any further questions regarding the opinion or the certification requirements.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Johnson", written over a horizontal line.

Jolaine Johnson, P.E.

Chief

Bureau of Chemical Hazards Management

Att: Copy of the request for opinion to the SEC
SEC hearing excerpt

cc: Denice Miller, LCB
Frank Luchetti, Sierra Pacific Power Co.

Chairman Molini: Agenda Item IV., Request for Advisory Opinion.

The Division of Environmental Protection is requesting pursuant to NAC 445.987, that the Commission issue an advisory opinion regarding the applicability of NAC 459.9719 requiring consultant certification to emergency response consultation.

Verne Rosse: Verne Rosse, Deputy Administrator, Division of Environmental Protection. To be brief, there is a memo in your packet from Jolaine Johnson to Lew Dodgion, Administrator. It has to do with the issue involving the Consultant Certification Program. The consultants around have interpreted this that they cannot provide information or assistance to Emergency Response people. Sierra Pacific is a specific example and they are frequently asked by Emergency Response personnel about exposure to PCB's and a transformer that may be on fire. The consultants in the state have interpreted they can't do that because of these regulations. It was not the intent of the regulations from DEP's view for them not to be able to provide assistance under emergency situations.

I would like to refer you to the last paragraph of that memorandum and what DEP is requesting that the Environmental Commission provide an advisory opinion that NAC 459.9719 does not apply to information or consultation provided at the request of an agency responsible for emergency response by any person who is not being paid a fee for such information or consultation or for other services related to that response.

Chairman Molini: Any questions by members for Mr. Rosse? Is there any public testimony?

William Bentley: I move that the commission provides the advisory opinion as outlined in the paragraph.

Russell Fields: I will second that.

Chairman Molini: It has been moved and seconded to adopt this advisory opinion as requested. Is there any discussion on the motion? All in favor of the motion, say I?

Members: I.

Chairman Molini: Opposed? Unanimously approved and that concludes our agenda.

PETER G. MORROS
Director

STATE OF NEVADA
BOB MILLER
Governor

L. H. DODGION
Administrator

Administration (702) 687-4670
Air Quality 687-5065
Mining Regulation and Reclamation 687-4670
Waste Management 687-5872
Federal Facilities 687-3880



Wastewater Treatment Services 687-5870
Water Permits and Compliance 687-4670
Water Quality Planning 687-4670
FAX 886-0868

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

123 W. Nye Lane
Carson City, Nevada 89710

April 7, 1992

Revised
MEMORANDUM

TO: L. H. Dodgion, Administrator
Executive Secretary, State Environmental Commission

FROM: Jolaine Johnson, Chief, Bureau of Chemical Hazards
Management

SUBJECT: Advisory opinion by the SEC requested regarding
applicability of consultant certification regulations
to certain emergency response consultation.

NAC 459.9719 requires that a person shall not provide services as an environmental manager... for a fee or in conjunction with other services for which a fee is charged, unless those services are performed under the direction and responsible control of a natural person who has obtained certification from the division. Staff has interpreted "services... for a fee or in conjunction with other services for which a fee is charged" as preventing certain service providers from consulting in hazardous waste management or release response or remediation in conjunction with other non-certified services.

For example, a transporter of hazardous waste may impose fees for the transportation of the waste for a fee and offer consultation on the generators requirements for management or disposal of the waste in conjunction with that service. With this regulatory provision, the transporter would still have to be certified to provide such consultation. Similarly, a contractor who charges a fee to remove and haul contaminated soil for a fee would require certification in order to consult the responsible party on site sampling, characterization, proper disposal, etc.

MEMORANDUM
L.H. Dodgion
April 7, 1992
Page 2

It has come to our attention that this provision is affecting services which staff believes it was not meant to affect. Specifically, Sierra Pacific Power Co. (SPPCo), is unable to provide advise or information to emergency response entities which request such assistance regarding PCB's which have been released to the environment by parties other than SPPCo. The SPPCo supports considerable resources regarding the safe handling of these and other energy-related hazardous materials. This valuable assistance is prevented because all agencies and businesses in the area pay SPPCo. for energy. Staff does not believe that the regulation was written or adopted to prevent such service in an emergency situation when requested by a responding agency and when a fee is not paid for the service.

Assembly Speaker Joe Dini, during a public hearing of the committee established by Assembly Concurrent Resolution No. 79 to assess emergency response capabilities in the State, has requested that NDEP address this concern.

Staff hereby requests that the State Environmental Commission (SEC) provide an advisory opinion that NAC 459.9719 does not apply to information or consultation provided at the request of an agency responsible for emergency response by any person who is not being paid a fee for such information or consultation or for other services related to that response.

Chairman Molini: Agenda Item IV., Request for Advisory Opinion.

The Division of Environmental Protection is requesting pursuant to NAC 445.987, that the Commission issue an advisory opinion regarding the applicability of NAC 459.9719 requiring consultant certification to emergency response consultation.

Verne Rosse: Verne Rosse, Deputy Administrator, Division of Environmental Protection. To be brief, there is a memo in your packet from Jolaine Johnson to Lew Dodgion, Administrator. It has to do with the issue involving the Consultant Certification Program. The consultants around have interpreted this that they cannot provide information or assistance to Emergency Response people. Sierra Pacific is a specific example and they are frequently asked by Emergency Response personnel about exposure to PCB's and a transformer that may be on fire. The consultants in the state have interpreted they can't do that because of these regulations. It was not the intent of the regulations from DEP's view for them not to be able to provide assistance under emergency situations.

I would like to refer you to the last paragraph of that memorandum and what DEP is requesting that the Environmental Commission provide an advisory opinion that NAC 459.9719 does not apply to information or consultation provided at the request of an agency responsible for emergency response by any person who is not being paid a fee for such information or consultation or for other services related to that response.

Chairman Molini: Any questions by members for Mr. Rosse? Is there any public testimony?

William Bentley: I move that the commission provides the advisory opinion as outlined in the paragraph.

Russell Fields: I will second that.

Chairman Molini: It has been moved and seconded to adopt this advisory opinion as requested. Is there any discussion on the motion? All in favor of the motion, say I?

Members: I.

Chairman Molini: Opposed? Unanimously approved and that concludes our agenda.

APPENDIX G

Paper entitled "An Assessment Of Capabilities In Nevada
For Response To Emergencies Involving Hazardous
Substances," dated March 18, 1992, and
prepared by Jolaine A. Johnson, P.E.,
Division of Environmental Protection,
State Department of Conservation and
Natural Resources

AN ASSESSMENT OF CAPABILITIES IN NEVADA
FOR RESPONSE TO EMERGENCIES
INVOLVING HAZARDOUS SUBSTANCES

Presented to the
Assembly Concurrent Resolution No. 79
Legislative Commission

Prepared by
Jolaine A. Johnson, P.E.
Nevada Division of Environmental Protection

March 18, 1992

AN ASSESSMENT OF CAPABILITIES IN NEVADA
FOR RESPONSE TO EMERGENCIES
INVOLVING HAZARDOUS SUBSTANCES

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**Nevada Division of Environmental Protection
Emergency Response Capabilities Assessment**

INTRODUCTION

With the nationally unequalled growth and rapid industrial diversification in the State of Nevada, the production, use, handling, storage, transportation and ultimate disposal of hazardous substances are increasing dramatically each year. Considerable quantities of hazardous substances are handled in the State every day without incident. However, accidents occur regularly which result in the release of hazardous substances. Depending upon the quantity and the specific properties of the hazardous substances released, such accidents can and have resulted in significant threat and impact to public health and safety.

The protection of public health and safety from such impacts is a key function of government at all levels. At the request of the Sub-Committee of the Legislative Commission established by Assembly Concurrent Resolution No. 79 to conduct an interim study of the laws relating to emergencies involving hazardous materials, the Nevada Division of Environmental Protection (NDEP) presents the following assessment of State and local capabilities for response to such emergencies. This assessment is based upon information compiled from numerous federal, State, and local sources, and upon the experience and impressions of NDEP as a member of the State Emergency Response Commission (SERC).

**Nevada Division of Environmental Protection
Emergency Response Capabilities Assessment**

HAZARDOUS SUBSTANCES IN NEVADA

Hazardous substances are used widely throughout the State of Nevada. Due to the wide range of chemicals used and the diversity in the way in which they are used, it is not possible to accurately quantify the substances present. However several assessments have been conducted regarding hazardous substances in Nevada. The findings of those assessments are summarized below.

Facilities

The Small Business Development Center (SBDC) of the University of Nevada - Reno, recently compiled a list of greater than 9000 facilities in the State which are likely to handle hazardous substances. The list was compiled based upon Standard Industrial Codes (SIC) for operations which indicated the uses of hazardous substances. The SBDC list is presently being used as a mailing list for the consolidated hazardous material report form developed by the State Fire Marshal, the Division of Emergency Management, the State Emergency Response Commission and NDEP. More quantified information will be available once that report form is returned by those facilities. The information provided by the facilities in that consolidated report will be utilized by all of the above listed coordinating agencies.

The Superfund Amendments and Reauthorization Act (SARA) of 1986, establishes requirements for facilities with designated quantities of hazardous and extremely hazardous substances to report their facilities and substances. Approximately 1100 facilities have registered their facilities and substances pursuant to those requirements. In addition, any facility which handles hazardous materials as defined by the Uniform Fire Code, must obtain a hazardous materials permit from the State Fire Marshal. For 1991, the State Fire Marshal issued approximately 2400 such permits to facilities throughout the State. The NDEP believes that numerous facilities are not in compliance with the SARA and Fire Marshal requirements. Information regarding the SARA and Fire Marshal reporting requirements is included in the consolidated report form which is being distributed to the facilities identified by the SBDC as described above. It is anticipated that reporting compliance will improve based upon the information being distributed with that report form.

**Nevada Division of Environmental Protection
Emergency Response Capabilities Assessment**

Transportation

A study conducted by the Nevada Department of Transportation (NDOT) in cooperation with the U.S. Department of Transportation, titled "Commodity Report - Including Hazardous Material Movements, April 1991", included an assessment of the transportation of hazardous substances on State highways. The NDOT report indicates that, based upon 1989 traffic figures, an average of 559 trucks transport an average of 9005 tons of hazardous materials on the State's highways each day. An estimated 34% of those vehicles are "bridge" vehicles, i.e., vehicles transporting materials through the State. The remaining vehicles are import, export or intra-state transport vehicles.⁽¹⁾

The Public Service Commission (PSC) has provided information regarding the transportation of hazardous substances by railcar within and through the State. In 1989, a total of 23,468 carloads of hazardous substances travelled the railways in Nevada. Of that, 15,016 (64%) of those carloads passed through the State and the remainder were import, export or intra-state commodities.⁽²⁾

**Nevada Division of Environmental Protection
Emergency Response Capabilities Assessment**

INCIDENTS INVOLVING HAZARDOUS SUBSTANCES

Hazardous substances are released every day in the State. The NDEP receives an estimated 40 reports a month of releases of hazardous substances. Releases in Nevada have ranged from 25 gallons of diesel fuel to the Pioneer Chlor-Alkali release of an estimated 40 to 60 tons of chlorine gas which caused more than 100 responders and community residents to seek medical treatment and warranted the evacuation of thousands of residents in the community of Henderson. The NDEP has received reports of releases of all types of hazardous substances including petroleum, pesticides, sodium cyanide, acids, caustics and the ominous "unknown ooze". Most of the reported incidents are effectively remedied by the responsible party without consequence to public health and safety. However, some of these incidents cannot or are not dealt with by the responsible party due to negligence or inadequate resources.

Every county in the State has experienced releases of various magnitude and consequence. As discussed in detail below, the rural counties of the State do not have adequate resources to safely and effectively respond to such releases. Yet hazardous substance releases can and do occur regularly throughout the State.

**Nevada Division of Environmental Protection
Emergency Response Capabilities Assessment**

ESTABLISHED LEGAL AUTHORITY AND RESPONSIBILITY

Numerous State and federal laws address the authority and responsibility of agencies regarding hazardous substances. For the purposes of this report, however, those laws which directly relate to response to emergencies involving hazardous substances will be discussed.

The Superfund Amendments and Reauthorization Act (SARA) of 1986 establishes significant requirements for State and local entities regarding hazardous substance information and emergency planning. The SARA requires the Governor of the State to appoint a State Emergency Response Commission (SERC). The SERC is required to appoint Local Emergency Planning Committees (LEPC) for designated emergency planning districts. Each LEPC is required to prepare and update a plan for emergencies involving releases of hazardous substances within their regions. While SARA clearly establishes the responsibility for planning and preparedness for such emergencies, no resources were provided by that law to support the efforts required to develop such plans or to develop teams as required to actually respond to such emergencies.

Numerous State statutes, regulations, executive orders and interagency agreements exist which address various responsibilities and authorities of State agencies regarding hazardous substance emergencies. A summary of those laws has been presented to the ACR 79 Committee by its staff analyst, Denise Miller. Essentially, State legal action has established provisions for the coordination of planning efforts, training programs to support response efforts, a hazardous substance information repository and some technical support. Several agencies are required to provide support functions during such an emergency such as coordination of resources, technical information, traffic control and equipment resources, if available.

A serious shortcoming in the requirements established by the federal and State laws, is specifically assigned responsibility and resources to provide for the actual hazardous substance response activities. In the rural areas of the State, this shortcoming is threatening the health and safety of the public and responding personnel, as discussed in detail below.

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HAZARDOUS SUBSTANCE EMERGENCY RESPONSE REQUIREMENTS

Uncontrolled releases of hazardous substances can pose serious health and safety effects to the general public and to response personnel. The broad range of substances present on any day in the State present a broad range of hazards to those who come into contact with the substances. Hazardous substances can contaminate the air we breathe, the water we drink and use for recreation, and the soils. Some substances cause damage to human health when breathed, some when ingested, and others upon skin contact. Some chemicals present explosion or fire hazards. Some chemicals react violently with water or air producing other chemicals with more severe hazards. In order to safely and effectively respond to such releases, the response personnel must understand the potential effects of the broad range of chemicals and protect themselves and the public from those effects.

The response to a release of hazardous substances is performed in various stages. The Occupational Safety and Health Administration (OSHA) has defined emergency response operations according to personnel functions and training levels as follows:

I. First Responder - Awareness

This operation stage involves the discovery or determination that a hazardous substance has been released. Operations at this level include securing the incident site, recognition and identification of the hazardous substances released and notification of appropriate response entities. Persons performing these operations would take no action to control or mitigate the release.

II. First Responder - Operational

This operation stage involves a defensive response, such as removing the public from potential exposure or diking areas which are not yet impacted to prevent spread of the material. This operation would not include any effort to stop the release.

III. Hazardous Materials Technician

At this operation stage personnel respond to stop the release of a hazardous substance. This operation is offensive action which requires personnel to enter the contaminated zone. Protection against the effects of the hazardous substances is required.

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IV. Hazardous Materials Specialist

This operation involves personnel with specialty training in the specific hazardous substance or equipment involved. These personnel assist the technicians described above.

V. On-Scene Incident Command

This operation provides overall coordination of all activities associated with the emergency response effort.

Once the emergency presented by the release is remedied, i.e., the public hazard is controlled, the incident requires additional attention:

VI. Remediation

This operation entails cleanup of the release area. Emergency response personnel are generally not involved in this operation stage. Remediation is typically conducted by the responsible party or a contractor hired by the responding agency if the responsible party is unavailable or uncooperative.

The OSHA has established performance based training requirements for each of the above described operations levels. First responder operation's personnel are trained to awareness of the potential effects of hazardous substances and to defend themselves against those effects. The subsequent offensive operation's personnel must be trained and equipped to protect themselves from exposure to the specific substances. An assessment of the personnel, training and equipment required to offensively respond to the emergency of a release of hazardous substances is presented below.

Minimally, a core hazardous substance emergency response team must consist of 6 to 8 people. This team provides for 2 people to enter the scene to perform the necessary operations, 2 people to back the entry team up and to rescue them if necessary, 2 people to decontaminate exiting personnel, and 2 for other support required. Depending upon the circumstances of the release, additional personnel are required to relieve the entry teams and to provide technical and operations support.

Training requirements for these personnel are extensive. The hazardous substance emergency response teams established in the urban areas of Nevada have required greater than 800 hours of training per responder to safely and effectively respond to such emergencies. Updates and refresher training are required on a

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continuing basis.

Safety and response equipment and supply requirements are also extensive. Information regarding the equipment required was provided by the Washoe County Regional Hazardous Materials Response Team in response to a request to expand the Washoe County Regional Team capabilities for response in the Lake Tahoe Basin. The costs presented do not include personnel costs for response activities. An estimated \$250,000 is required to adequately equip a response team, according to the Washoe County Regional Team information. This estimate is consistent with other sources which indicate between \$200,000 to \$300,000 to equip a response team.

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NEVADA EMERGENCY RESPONSE CAPABILITIES

As discussed above, threatening releases of hazardous substances have and will occur throughout the State. Many of those incidents do not pose significant threat to the public or response personnel and are often remedied by the party responsible for the release. However, numerous incidents occur every year which are abandoned by the responsible party and left to the local resources to remedy.

Competent and effective hazardous substance response teams have been developed by the Clark County Fire Department, the Las Vegas Fire Department and a consolidation of fire departments in Washoe County. These teams should serve as models for other teams to be developed throughout the State. These urban area teams are fully supported by local funds and other resources.

Washoe and Clark counties have developed response teams within their fire department operations. In order to provide this extended service, these departments have provided full-time fire service personnel with extensive training (800 hours and more) and specialized equipment. This level of training and equipment is necessary to prepare these responders for safe and effective response to the wide range of potential hazardous substance incidents.

The rural areas of the State, in general, do not and cannot support adequately trained and equipped hazardous substance emergency response teams. The population base cannot support the extensive funding and personnel resources dedicated to emergency response in the rural communities of Nevada. The U.S. Environmental Protection Agency (EPA) has evaluated emergency response resources throughout the nation and determined that a population base of greater than 150,000 is required to adequately support a hazardous substance response team.⁽³⁾

In general, the rural areas of the State are served by volunteer fire departments. While the State Fire Marshal has developed and made available training to prepare all such personnel for hazardous substance emergency response, volunteers are unable to attend the training because they have full-time jobs beyond their fire-fighting volunteer work. Beyond training, the rural areas do not have the funding resources to provide the specialized equipment necessary to protect response personnel from the extreme and varied effects of hazardous substances.

The U.S. Environmental Protection Agency provides emergency response teams for severe releases which pose significant threat. The EPA has responded to numerous incidents within Nevada including

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the Pepcon explosion and the Pioneer chlorine release. However, the EPA requires 8 to 24 hours to respond to incidents in Nevada. This delayed response mandates that the local entities provide initial response to adequately protect public health until EPA response arrives. While several State agencies are assigned responsibilities for support and coordination during such emergencies, no State supported response teams are available to the local emergency. Numerous incidents in the State have been responded to by inappropriately trained and equipped local personnel. Volunteer fire response personnel have responded. County and city maintenance crews have been tasked with response and cleanup. Nevada Department of Transportation (NDOT) maintenance personnel have responded to numerous incidents involving transportation accidents and subsequent releases of hazardous substances. These responses by inadequately trained and equipped personnel are occurring because adequate response resources are not available in the rural areas of the State. Such responses are threatening the health and lives of the response personnel and the general public.

As discussed above, the SERC and LEPC's are mandated to develop plans for emergencies involving releases of hazardous substances without adequate supporting funds or resources. Due to basic dedication and resourcefulness of the LEPC members and SERC members and staff, considerable accomplishments have been made by them in regards to the SARA requirements. Emergency response plans have been developed and government and industry have coordinated plans and information. However, hazardous substance response teams are still not available in the rural areas of the State and the rural areas do not have the resources to develop or support such teams. The LEPC's require additional support from the State in the form of funding, administrative support and technical support to meet the mandates of SARA and other laws, and to protect public health and safety from the hazards of incidents involving hazardous substances.

Federal legislation subsequent to the SARA continues to increase the responsibilities of the LEPC's. Some of that subsequent legislation has provided for funding to support those requirements. However, the combined funding resources are inadequate to support the extensive efforts required at the LEPC level and none of the funding is authorized for use toward developing and maintaining a hazardous substance response team.

Under a contract with the NDEP, the Dodd Beals Fire Protection Training Academy recently surveyed the LEPC's to assess their resources. Every rural LEPC which did respond reported minimal capability and resources to respond to an incident due to the lack of adequate funding.⁽⁴⁾ This lack of response resources must be addressed and remedied at the State level in order to protect the

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health and safety of the general public and rural response personnel. Several recommendations for consideration by the ACR 79 Committee toward providing adequate response resources are presented below.

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RECOMMENDATIONS

- I. The role of the SERC in providing support to the LEPC's should be strengthened. Some of the LEPC's do not have adequate financial, administrative or technical resources to meet their mandates. Resources at the State level, under SERC, should provide direction and assistance, as appropriate for each LEPC.

Presently, the SERC is made up of representatives of numerous State agencies, local law enforcement, emergency response agencies and industry. While the skills and expertise represented on the SERC, and its staff, Mr. Bob Andrews, is quite impressive and the accomplishments to date are commendable, the SERC lacks the dedicated resources to provide adequate support to the LEPC's in meeting the mandates established by federal laws. Dedicated administrative and technical personnel are required to provide the necessary support to the LEPCs. SERC support efforts are presently dispersed among the participating entities. Some of those responsibilities are established by legislation or regulation to several separate agencies. However, considerable effort is expended by participating entities without clear authority or specific resources. These support resources would be more efficient if they were more consolidated, under clear mandates and supplemented.

The NDEP proposes that the ACR 79 Sub-Committee:

- A. Evaluate the support and resources which the State should be providing to the LEPC's;
 - B. Assess the current responsibilities and resources which are dispersed across agencies;
 - C. Consider the consolidation of the current resources and responsibilities which support the SERC/LEPC requirements directly under the SERC or an agency assigned the responsibility of support to the SERC. The need for additional administrative and technical resources should then be considered and provided.
- II. The rural areas of the State are not provided with adequate resources to respond to incidents involving hazardous substances. Due to the low frequency of serious incidents in the rural areas, hazardous substance response teams are not warranted in each county. Locating teams on a regional basis to provide for a reasonable response time to incidents

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throughout the rural areas would provide for effective use of such resources. As detailed above, the resources of personnel, extensive training and equipment must be provided to develop and maintain such teams.

The NDEP recommends that the ACR 79 Legislative Commission:

- A. Further consider the resources required to develop and maintain hazardous substance emergency response teams.
- B. Consider potential personnel resources for emergency response including, but not limited to:
 - 1. New staff dedicated to emergency response to be located regionally and assigned to the SERC as discussed above.
 - 2. Inter-agency teams comprised of personnel of State and local agencies and private companies located in the rural areas. This option would require clear inter-agency agreements, considerable administrative efforts, and supplemented resources to each of the participating entities.
 - 3. Supplemental resources to expand and maintain the Nevada Department of the Military Chemical Battalion operations to respond to hazardous substance emergencies. These resources are currently prepared to respond to other types of emergencies throughout the State and may already have significant personnel training and equipment resources.
 - 4. Private contractors to respond throughout the State in a timely manner.
- C. Consider funding resources to support personnel and equipment including, but not limited to:
 - 1. Transportation fees. Assessing fees on the transportation of hazardous materials would be the most equitable source of funds in that it would include the considerable quantities of substances which pass through the State as well as those which are imported or exported for use within the State. The materials transporting through and within the State present hazards in the event of a transportation accident. Initial review of the Hazardous Materials Transportation Act indicates that assessing such fees is permissible. However,

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additional review of federal pre-emption authority is required. The administrative requirements for assessing fees for transportation must be evaluated.

2. Distribution fees. Fees could be assessed at the point of distribution of hazardous substances. This also would require considerable administrative support, which should be further evaluated.
3. Facility fees. Fees could also be assessed at the facilities which handle hazardous quantities of substances, such as the SARA reporting facilities.

REFERENCES

- (1) Nevada Department of Transportation, "Commodity Report - Including Hazardous Material Movements, April, 1991".
- (2) Public Service Commission, Galen D. Denio, P.E., Manager Engineering Services. 1984-1989 ICC Waybill Samples.
- (3) Brubaker, Terry, Emergency Response Section, U.S. Environmental Protection Agency, Region IX.
- (4) Survey of LEPC's conducted by the Dodd Beals Fire Protection Training Academy.

APPENDIX H

Suggested Legislation

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BDR 40-356	Makes various changes relating to repository for information concerning hazardous materials in Nevada 161
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BDR 36-358	Creates state center for emergency operations to receive reports of emergencies involving hazardous materials and maintain information relating to those emergencies 167
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BDR 40-362	Requires allowance of reasonable time to correct first violation of state regulation regarding hazardous material before imposition of administrative fine or civil penalty..... 179
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BDR 40-367	Provides that person may offer free consultation to public agency regarding incidents involving hazardous materials without certification 247
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BDR 53-371	Limits authority of division of enforcement for industrial safety and health of department of industrial relations to adopt certain regulations relating to hazardous materials 257
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BDR 42-373	Requires state fire marshal to establish mobile training team to train volunteer firemen to respond to incidents involving hazardous materials 261
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BDR R-378	Directs State Emergency Response Commission to conduct study concerning local emergency planning committees and agreements of mutual aid between local entities responding to incidents involving hazardous materials	279
BDR 36-379	Clarifies definition of emergency management	283
BDR 36-380	Requires state agencies to develop and update plan for emergency management	285
BDR 18-381	Creates state board for management of information	287

SUMMARY--Makes various changes relating to repository for information concerning hazardous materials in Nevada. (BDR 40-356)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous materials; making various changes to the provisions governing the repository for information concerning hazardous materials in Nevada within the Nevada highway patrol division of the department of motor vehicles and public safety; and providing other matters properly relating thereto.

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

Section 1. NRS 459.715 is hereby amended to read as follows:

459.715 1. The repository for information concerning hazardous materials in Nevada is hereby created within the division. *The repository is the sole repository of the state for information collected in accordance with Public Law 99-499.*

2. The commission shall coordinate the collection of information for the repository and may adopt regulations for that purpose which are consistent

with all applicable laws and with any regulations adopted by the director regarding the management and operation of the repository.

3. Every *local emergency planning committee and every* state and local governmental agency concerned with the generation, transportation, shipment, storage or disposal of hazardous materials shall submit to the division pursuant to the regulations of the department and the commission such information it collects regarding hazardous materials as required by the commission.

4. The division shall collect, maintain and arrange all information submitted to it concerning hazardous materials.

5. The division may, in a manner consistent with applicable laws and regulations:

(a) Disseminate any information which is contained in the repository to any other governmental agency concerned with the storage, packaging, disposal or transportation of hazardous materials; and

(b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of such information.

6. *The division shall make information:*

(a) *Obtained in accordance with Public Law 99-499 by a state or local governmental agency or by a local emergency planning committee; and*

(b) *Submitted to the repository,*
available to the general public unless such information could have been withheld by the state or local governmental agency or the local emergency planning committee in accordance with Public Law 99-499.

SUMMARY--Directs state fire marshal to develop reference guide for use by personnel responding to emergencies involving hazardous materials. (BDR 40-357)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous materials; directing the state fire marshal to develop a reference guide for use by personnel who respond to accidents and incidents involving hazardous materials; requiring such personnel to be equipped with the reference guide; and providing other matters properly relating thereto.

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

Section 1. Chapter 459 of NRS is hereby amending by adding thereto a new section to read as follows:

1. The state fire marshal shall, in cooperation with local fire departments, develop a reference guide for use by state and local personnel who respond to accidents and incidents involving hazardous materials. The reference guide must provide information which is readily accessible regarding procedures for

responding to the first critical moments of an accident or incident involving hazardous materials.

2. All state and local personnel who respond to accidents and incidents involving hazardous materials must be equipped with the reference guide.

3. The state fire marshal shall, upon request, distribute the reference guide to local governments, state and local personnel who respond to accidents and incidents involving hazardous materials and students enrolled in training programs for responding to accidents and incidents involving hazardous materials.

Sec. 2. NRS 459.700 is hereby amended to read as follows:

459.700 As used in NRS 459.700 to 459.780, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Commission" means the state emergency response commission.
2. "Department" means the department of motor vehicles and public safety.
3. "Director" means the director of the department of motor vehicles and public safety.
4. "Division" means the Nevada highway patrol division of the department of motor vehicles and public safety.
5. "Extremely hazardous material" means any material or combination of materials listed in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations.
6. "Hazardous material" means any substance or combination of substances, including solids, semisolids, liquids or contained gases, which:

(a) Is identified as hazardous by the regulating agency as a result of studies undertaken to identify hazardous materials or wastes; and

(b) Because of its quantity or concentration or its physical, chemical, radioactive or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or

(2) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management, including toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

7. "Person" includes any agency or political subdivision of this state.

Sec. 3. NRS 459.735 is hereby amended to read as follows:

459.735 1. The contingency account for hazardous materials is hereby created in the state general fund.

2. The commission shall administer the contingency account for hazardous materials, and the money in the account may be expended only for:

(a) Carrying out the provisions of NRS 459.735 to 459.770, inclusive [;] , *and section 1 of this act;*

(b) Carrying out the provisions of Public Law 99-499;

(c) Maintaining and supporting the operations of the commission and local emergency planning committees;

(d) Training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials; and

(e) Operation of training programs and a training center for handling emergencies relating to hazardous materials and related fires pursuant to NRS 477.045.

3. All money received by the commission from any source must be deposited with the state treasurer to the credit of the contingency account for hazardous materials. The state controller shall transfer from the contingency account to the operating account of the state fire marshal such money collected pursuant to chapter 477 of NRS as is authorized for expenditure in the budget of the state fire marshal for use pursuant to paragraph (e) of subsection 2. The interest and income earned on the money in the contingency account, after deducting any applicable charges, must be credited to the account.

4. All claims against the contingency account for hazardous materials must be paid as other claims against the state are paid.

SUMMARY--Creates state center for emergency operations to receive reports of emergencies involving hazardous materials and maintain information relating to those emergencies. (BDR 36-358)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to emergency management; creating the state center for emergency operations within the division of emergency management of the department of the military; establishing the duties of the center; requiring the director of the division to compile a list of the agencies that must be notified if an emergency involving hazardous materials is reported to the center; and providing other matters properly relating thereto.

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

Section 1. Chapter 414 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *"Hazardous material" has the meaning ascribed to it in NRS 459.700.*

Sec. 3. 1. *A state center for emergency operations is hereby created within the division of emergency management.*

2. The center shall:

(a) Provide a telephone number that is available 24 hours a day for receiving reports of emergencies involving hazardous materials;

(b) Notify the appropriate federal, state or local governmental agencies of an emergency involving hazardous materials that is reported to the center;

(c) Maintain a record of all emergencies involving hazardous materials that are reported to the center;

(d) Cooperate with the appropriate federal, state and local governmental agencies to develop a form to be used for recording the facts gathered during an investigation of an emergency involving hazardous materials;

(e) Maintain records, reports and statistical data that include information gathered or received from reports or investigations of emergencies involving hazardous materials; and

(f) Make available to the appropriate federal, state and local governmental agencies the records, reports and statistical data maintained by the center.

Sec. 4. A state or local agency that is notified of an emergency involving hazardous materials shall, as soon as is reasonably possible:

1. Call the 911 emergency telephone number to report the emergency; and

2. Notify the state center for emergency operations of the emergency.

Sec. 5. Any federal, state or local governmental agency that is required by the director to be notified if an emergency involving hazardous materials occurs shall notify the division of emergency management within 10 days after any change in the agency's telephone number.

Sec. 6. 1. Any agency responsible for the investigation of an emergency involving hazardous materials shall complete the form developed pursuant to paragraph (d) of subsection 2 of section 3 of this act, and submit the form to the division of emergency management within 30 days after the completion of the investigation. The division shall provide the form upon request.

2. The division of emergency management shall maintain a record of the information included on the forms submitted pursuant to subsection 1 and prepare an annual report summarizing this information. The report must be distributed to all agencies in this state that respond to emergencies involving hazardous materials.

Sec. 7. NRS 414.030 is hereby amended to read as follows:

414.030 As used in this chapter, the words and terms defined in NRS 414.031 to 414.038, inclusive, *and section 2 of this act*, have the meanings ascribed to them in those sections.

Sec. 8. NRS 414.040 is hereby amended to read as follows:

414.040 1. A division of emergency management is hereby created within the department of the military. The director of the division is appointed by and holds office at the pleasure of the governor. The division is the state agency for civil defense and the director is the state's director of civil defense.

2. The director may employ technical, clerical, stenographic and other personnel as may be required, and may make such expenditures therefor and for other expenses of his office within the appropriation therefor, or from other

money made available to him for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

3. The director, subject to the direction and control of the adjutant general, shall carry out the program for emergency management in this state. He shall coordinate the activities of all organizations for emergency management within the state, maintain liaison with and cooperate with agencies and organizations of other states and of the Federal Government for emergency management and carry out such additional duties as may be prescribed by the adjutant general.

4. *The director shall:*

(a) Maintain a list of the federal, state or local governmental agencies that must be notified by the state center for emergency operations if an emergency involving hazardous materials is reported to the center; and

(b) Consult with the appropriate agencies of the federal, state and local governments in compiling the list.

SUMMARY--Makes appropriation to state fire marshal division for establishment of toll-free telephone line to provide information on regulations related to hazardous materials. (BDR S-359)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: Contains
 Appropriation.

AN ACT making an appropriation to the state fire marshal division of the department of commerce for the establishment and operation of a toll-free telephone line providing information on regulations relating to hazardous materials; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the state general fund to the state fire marshal division of the department of commerce for the establishment and operation of a toll-free telephone line for businesses to obtain information on regulations relating to hazardous materials and for emergency response agencies to inquire about training requirements and programs:

For the fiscal year 1993-94.....\$5,000

For the fiscal year 1994-95.....\$5,000

Sec. 2. Any balance of the sums appropriated by section 1 of this act remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 3. This act becomes effective on July 1, 1993.

SUMMARY--Requires state emergency response commission under certain circumstances to develop informational programs regarding hazardous materials. (BDR 40-360)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to hazardous materials; requiring the state emergency response commission under certain circumstances to develop informational programs relating to hazardous materials; and providing other matters properly relating thereto.

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

Section 1. Chapter 459 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The state emergency response commission shall develop informational programs for businesses and for the public regarding:

(a) Reporting requirements relating to hazardous materials;

(b) Regulations relating to hazardous materials;

(c) The role of local emergency planning committees pursuant to Public Law 99-499; and

(d) Federal and state statutes governing the availability to the public of information relating to hazardous materials, if money is available for this purpose in the contingency account for hazardous materials created pursuant to NRS 459.735.

2. As used in this section, "hazardous material" has the meaning ascribed to it in NRS 459.700 and includes the materials so identified and listed in regulations adopted by the director of the department of motor vehicles and public safety pursuant to NRS 459.710.

Sec. 2. NRS 459.735 is hereby amended to read as follows:

459.735 1. The contingency account for hazardous materials is hereby created in the state general fund.

2. The commission shall administer the contingency account for hazardous materials, and the money in the account may be expended only for:

- (a) Carrying out the provisions of NRS 459.735 to 459.770, inclusive;
- (b) Carrying out the provisions of Public Law 99-499;
- (c) Maintaining and supporting the operations of the commission and local emergency planning committees;
- (d) Training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials; [and]
- (e) *Development of informational programs for businesses and for the public pursuant to section 1 of this act; and*

(f) Operation of training programs and a training center for handling emergencies relating to hazardous materials and related fires pursuant to NRS 477.045.

3. All money received by the commission from any source must be deposited with the state treasurer to the credit of the contingency account for hazardous materials. The state controller shall transfer from the contingency account to the operating account of the state fire marshal such money collected pursuant to chapter 477 of NRS as is authorized for expenditure in the budget of the state fire marshal for use pursuant to paragraph [(e)] (f) of subsection 2. The interest and income earned on the money in the contingency account, after deducting any applicable charges, must be credited to the account.

4. All claims against the contingency account for hazardous materials must be paid as other claims against the state are paid.

SUMMARY--Authorizes representative of local emergency planning committee to enter certain facilities if necessary to carry out duties of committee. (BDR 40-361)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: No.

AN ACT relating to emergencies involving hazardous material; authorizing a representative of a local emergency planning committee to enter certain facilities if necessary to carry out the duties of the committee; and providing other matters properly relating thereto.

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

Section 1. Chapter 459 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A local emergency planning committee may, if entry of a facility is necessary to carry out its duties pursuant to Public Law 99-499, authorize a representative of the committee to enter the facility:

(a) During the regular hours of operation of the facility; or

(b) At any time the committee has reason to believe there is a threat to the public health or safety as a result of the presence of hazardous material at the facility.

unless the entry would threaten the health or safety of any person at the facility.

2. The owner and operator of a facility shall allow a representative designated by a local emergency planning committee to enter the facility as authorized pursuant to this section.

3. As used in this section:

(a) "Facility" means any premises or other location where hazardous material or records relating to hazardous material are present.

(b) "Hazardous material" has the meaning ascribed to it in NRS 459.700.

SUMMARY--Requires allowance of reasonable time to correct first violation of state regulation regarding hazardous material before imposition of administrative fine or civil penalty. (BDR 40-362)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous material; requiring the allowance of a reasonable time to correct a first violation of a state regulation regarding hazardous material before the imposition of an administrative fine or civil penalty; and providing other matters properly relating thereto.

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

Section 1. NRS 445.331 is hereby amended to read as follows:

445.331 1. [Any] *Except as otherwise provided in subsection 2, a person who violates or aids or abets in the violation of any provision of NRS 445.131 to 445.354, inclusive, or of any permit, regulation, standard or final order issued thereunder, except a provision concerning a diffuse source, shall pay a civil penalty of not more than \$25,000 for each day of the violation. The civil*

penalty imposed by this subsection is in addition to any other penalties provided pursuant to NRS 445.131 to 445.354, inclusive.

2. Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no civil penalty may be imposed pursuant to subsection 1 against a person for his first violation of a regulation or standard regarding the transportation, handling, treatment, storage, discharge, injection, disposal, reporting, testing or monitoring of any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person is first issued a compliance order pursuant to NRS 445.324 and fails to complete the prescribed corrective action within the prescribed time.

3. In addition to the penalty provided in subsection 1, the department may recover from the person actual damages to the state resulting from the violation of NRS 445.131 to 445.354, inclusive, any regulation or standard adopted by the commission, or permit or final order issued by the department, except the violation of a provision concerning a diffuse source.

[3.] 4. Damages *that may be recovered pursuant to subsection 3* include:

(a) Any expenses incurred in removing, correcting and terminating any adverse effects resulting from a discharge or the injection of contaminants through a well; and

(b) Compensation for any loss or destruction of wildlife, fish or aquatic life.

5. For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.

Sec. 2. NRS 445.397 is hereby amended to read as follows:

445.397 1. Any supplier of water who willfully:

(a) Violates any standard established pursuant to NRS 445.379;

(b) Violates or fails to comply with an emergency order issued pursuant to NRS 445.389;

(c) Violates any condition imposed by the state board of health upon granting a variance or exemption under NRS 445.391;

(d) Violates a regulation adopted by the state board of health pursuant to NRS 445.381; or

(e) Fails to give a notice as required by NRS 445.393,

shall , *except as otherwise provided in subsection 3*, pay a civil penalty of not more than \$5,000 for each day of the violation.

2. In addition to the civil penalty prescribed in subsection 1, the state board of health may , *except as otherwise provided in subsection 3*, impose an administrative fine against a supplier of water who willfully commits any violation enumerated in subsection 1. The administrative fine imposed may not be more than \$2,500 per day for each such violation.

3. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no civil penalty or administrative fine may be imposed pursuant to this section against a person for his first violation of a standard established pursuant to NRS 445.379 or regulation adopted pursuant to NRS 445.381, regarding the transportation, handling, treatment, storage, discharge, disposal, presence, reporting, testing or monitoring of any hazardous material, unless the person first receives written notice of the*

violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.

4. The civil penalty and administrative fine prescribed in this section may be imposed in addition to any other penalties or relief prescribed in NRS 445.361 to 445.399, inclusive.

5. *For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.*

Sec. 3. NRS 445.526 is hereby amended to read as follows:

445.526 1. Whenever the director believes that a statute or regulation for the prevention, abatement or control of air pollution has been violated, he shall cause written notice to be served upon the person or persons responsible for the alleged violation.

2. The notice shall specify:

- (a) The statute or regulation alleged to be violated; and
- (b) The facts alleged to constitute the violation.

3. The notice may include an order to take corrective action within a reasonable time, which shall be specified. Such an order becomes final unless, within 10 days after service of the notice, a person named in the order requests a hearing before the commission.

4. With or without the issuance of an order pursuant to subsection 3, or if corrective action is not taken within the time specified:

- (a) The director may notify the person or persons responsible for the alleged violation to appear before the commission at a specified time and place; or

(b) The commission may , *except as otherwise provided in NRS 445.601*, initiate proceedings for recovery of the appropriate penalty.

5. Nothing in this section prevents the commission or the director from making efforts to obtain voluntary compliance through warning, conference or other appropriate means.

Sec. 4. NRS 445.601 is hereby amended to read as follows:

445.601 1. Except as otherwise provided [by subsection 4, any] *in subsections 4 and 5*, a person who violates any provision of NRS 445.401 to 445.526, inclusive, and 445.546 to 445.601, inclusive, or any regulation in force pursuant thereto, other than NRS 445.576 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the commission of not more than \$5,000. Each day of violation constitutes a separate offense.

2. The commission shall by regulation establish a schedule of administrative fines not exceeding \$500 for lesser violations of any provision of NRS 445.401 to 445.526, inclusive, and 445.546 to 445.601, inclusive, or any regulation in force pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 445.401 to 445.526, inclusive, and 445.546 to 445.601, inclusive, regulations in force pursuant thereto, and orders made pursuant to NRS 445.401 to 445.526, inclusive, and 445.546 to 445.601, inclusive, by injunction or other appropriate remedy, and the commission or the director may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

4. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no administrative fine may be imposed pursuant to this section against a person for his first violation of a regulation regarding the transportation, handling, treatment, storage, discharge, emission, disposal, reporting, testing or monitoring of any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person is first issued an order to take corrective action pursuant to NRS 445.526 and fails to complete the corrective action within the time specified in that order.*

5. Any person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to persons found by the court to be indigent.

[5.] 6. All administrative fines collected by the commission pursuant to this section [shall] *must* be deposited in the county school district fund of the county where the violation occurred.

7. *For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.*

Sec. 5. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410, 449.001 to 449.240, inclusive, or any condition, standard or regulation adopted

by the board, the health division in accordance with the regulations adopted pursuant to NRS 449.165 may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) [Impose] *Except as otherwise provided in subsection 2, impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and*

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no administrative penalty may be imposed pursuant to paragraph (c) of subsection 1 against a person for his first violation of a standard or regulation of the board regarding the handling, treatment, storage or disposal of any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person first

receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the health division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

[3.] 4. The health division may require any facility that violates any provision of NRS 439B.410, 449.001 to 449.240, inclusive, or any condition, standard or regulation adopted by the board, to make any improvements necessary to correct the violation.

[4.] 5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

6. *For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.*

Sec. 6. NRS 459.211 is hereby amended to read as follows:

459.211 The state board of health shall establish by regulation:

1. License fees and any other fees for the operation of state-owned areas in an amount sufficient to defray all costs of monitoring, securing or otherwise

regulating the storage or disposal of radioactive materials. The person who contracts with the state for the operation of such an area is responsible for the payment of these fees.

2. Procedures for the collection of interest on delinquent fees and other accounts for the operation of disposal areas.

3. Penalties of no more than \$3,000 per day for each separate failure to comply with an agreement, license, regulation or statute governing the operation of a disposal area. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no penalty may be imposed pursuant to this subsection against a person for his first violation of a regulation regarding the transportation, handling, treatment, storage, discharge, disposal, reporting, testing or monitoring of any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.*

4. License fees and other fees for the use of such an area to store or dispose of radioactive materials, which are chargeable against shippers or brokers in amounts sufficient to defray the costs to the state of inspecting, monitoring, securing or otherwise regulating their use of the area. In addition, the board may establish by regulation a fee chargeable against shippers and brokers for revenue for the State of Nevada. Before establishing a fee for revenue, the board must consider the amounts of the fees for licensing and disposal which

are chargeable against the users of such areas in other states, in order that a shipper or broker [be] is neither encouraged nor discouraged from disposing of such waste in this state, and that he base his decision about where to dispose of the waste primarily on the cost of transportation to the areas which are available for disposal. The regulations adopted pursuant to this subsection may include a method for the collection of fees from the users of an area, and each of the fees may be a percentage of the fee paid by a user to the operator of the area. The board shall report to the legislature at the end of January of odd-numbered years the amounts of revenue paid to the state for the use of such areas in the preceding biennium.

5. For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.

Sec. 7. NRS 459.221 is hereby amended to read as follows:

459.221 1. A shipper or producer of radioactive waste, or a broker who receives such waste from another person for the purpose of disposal, shall not dispose of the waste in this state until he obtains a license from the health division to use the disposal area. The health division shall order a shipment of such waste from an unlicensed shipper or broker to be returned to him, except for a package which has leaked or spilled its contents, unless the package has been securely repackaged for return.

2. The health division shall issue a license to use a disposal area to a shipper or broker who demonstrates to the satisfaction of the division that he will package and label the waste he transports or causes to be transported to

the disposal area in conformity with the regulations of the state board of health. The director of the department of human resources may designate third parties to inspect and make recommendations concerning such shippers and brokers and their shipments.

3. A shipper or broker violates this section if he transports or causes to be transported to a disposal area any such waste:

(a) Which is not packaged or labeled in conformity with regulations of the state board of health;

(b) Which is not accompanied by a bill of lading or other shipping document prescribed by that board; or

(c) Which leaks or spills from its package, unless, by way of affirmative defense, the shipper or broker proves that the carrier of the waste was responsible for the leak or spill,

and if licensed by the health division, he may be assessed an administrative penalty by the health division of not more than \$5,000, or if not licensed, he is guilty of a misdemeanor. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no administrative penalty may be imposed pursuant to this subsection against a person for his first violation of a regulation of the state board of health regarding the packaging or labeling of any hazardous material, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.*

4. Each container of such waste which is not properly packaged or labeled, or leaks or spills its contents, constitutes a separate violation, but the total amount of the penalty or fine for any one shipment must not exceed \$20,000. The health division in assessing an administrative penalty, or the court in imposing a fine for a misdemeanor, shall consider the substantiality of the violation and the injury or risk of injury to persons or property in this state.

5. The health division, or the board pursuant to NRS 459.100, may suspend or revoke a license to use a disposal area if it finds that the licensee has violated any provision of this chapter. If a license has been revoked or suspended, it may be reinstated only if the licensee demonstrates to the health division that he will comply with the provisions of this chapter in all future shipments of waste.

6. *For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.*

Sec. 8. NRS 459.3872 is hereby amended to read as follows:

459.3872 1. If any person violates any of the provisions of NRS 459.380 to 459.386, inclusive, or 459.387, or any regulation or order adopted or issued pursuant thereto, the division may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent the violation and the court may proceed in the action in a summary manner.

2. Any person who violates a provision of NRS 459.380 to 459.386, inclusive, or 459.387, or any regulation or order adopted pursuant thereto is

liable to a civil administrative penalty as set forth in NRS 459.3874. If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense.

3. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no civil administrative penalty may be imposed pursuant to this section against a person for his first violation of a regulation, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.*

4. No civil administrative penalty may be levied until after notification to the violator by certified mail or personal service. The notice must include a reference to the section of the statute, regulation, order or condition of a permit violated, a concise statement of the facts alleged to constitute the violation, a statement of the amount of the civil penalties to be imposed, and a statement of the violator's right to a hearing. The violator has 20 days after receipt of the notice within which to deliver to the division a written request for a hearing. *The notice required by this subsection is in addition to any previous notice required by subsection 3.*

5. After the hearing , if requested, and upon a finding that a violation has occurred, the administrator of the division may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice becomes a final order upon the expiration of the 20-day

period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order.

6. The authority to levy a civil administrative penalty is in addition to all other provisions for enforcement of NRS 459.380 to 459.387, inclusive, and the payment of a civil administrative penalty does not affect the availability of any other provision for enforcement in connection with the violation for which the penalty is levied.

Sec. 9. NRS 459.3874 is hereby amended to read as follows:

459.3874 1. The civil administrative penalties are:

<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
A. Failure to register a new or existing regulated facility:	\$25,000 plus \$2,000 per day from the due date
B. Failure to pay annual fee:	75 percent of the fee
C. Failure to submit a safety report:	\$10,000 plus \$1,000 per day from the due date
D. Failure to conduct an assessment of risk through analysis of hazards pursuant to the conditions set forth in NRS 459.3844:	\$25,000
E. Failure to put into effect plan:	\$50,000

- F. Failure to comply with plan to reduce accidents and schedule of compliance: up to \$5,000
- G. Failure to comply with approved plan to reduce accidents, each requirement: up to \$10,000
- H. Failure to provide information requested by the division: \$25,000
- I. Failure to grant access to employees or agents of division for inspections: \$25,000
- J. Failure to provide information or grant access to employees or agents of division during an emergency: \$50,000
- K. Falsification of information submitted to division: up to \$10,000 per incident

2. The division may compromise and settle any claim for any penalty under this section in such *an* amount in the discretion of the division as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator. If a violator is subject to the imposition of more than one civil administrative penalty for the same violation, the division shall compromise and settle the claim for the penalty under this section in such *an* amount as to avoid the duplication of penalties.

3. No penalty may be imposed pursuant to this section for the failure to perform a required act within the time required if the delay was caused by a

natural disaster or other circumstances which are beyond the control of the violator.

4. Any person who violates any of the provisions of NRS 459.380 to 459.386, inclusive, or 459.387, [or] any regulation or order adopted or issued pursuant thereto, or an administrative order [issued pursuant to subsection 2 of NRS 459.3872 or a] *or* court order issued pursuant to [subsection 1 of] NRS 459.3872, or who fails to pay a civil administrative penalty in full is subject, upon order of the court, to a civil penalty not to exceed \$10,000 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed pursuant to this subsection may be recovered with costs in a summary proceeding by the attorney general.

Sec. 10. NRS 459.500 is hereby amended to read as follows:

459.500 1. Except as otherwise provided in NRS 459.700 to 459.780, inclusive, or 459.800 to 459.856, inclusive:

(a) Regulations of the commission must provide:

(1) For safety in packaging, handling, transportation and disposal of hazardous waste, including safety of vehicles and drivers;

(2) For the certification of consultants involved in consultation regarding the response to and the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance, or the management of hazardous waste; and

(3) That a person employed full time by a business to act as such a consultant is exempt from the requirements of certification:

(I) If he is certified by the federal Occupational Safety and Health Administration to manage such waste, materials or substances; and

(II) While acting in the course of that full-time employment.

(b) Regulations of the commission may:

(1) Provide for the licensing and other necessary regulation of generators, including shippers, brokers and carriers, both intrastate and interstate, who cause that waste to be transported into or through Nevada or for disposal in Nevada;

(2) Require that the person responsible for a spill, leak or accident involving hazardous waste, hazardous material or a regulated substance, obtain advice on the proper handling of the spill, leak or accident from a consultant certified under the regulations adopted pursuant to subsection 1; and

(3) Establish standards relating to the education, experience, performance and financial responsibility required for the certification of consultants.

2. The regulations may include provisions for:

(a) Fees to pay the cost of inspection, certification and other regulation; and

(b) Administrative penalties of not more than \$2,500 per violation or \$10,000 per shipment for violations by persons licensed by the department, and the criminal prosecution of violations of its regulations by persons who are not licensed by the department. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no administrative*

penalty may be imposed pursuant to this paragraph against a person for his first violation of a regulation, unless the person is first issued an order pursuant to NRS 459.570 to correct the violation and fails to complete the corrective action within the time prescribed in that order.

3. Designated employees of the department, the public service commission of Nevada and the Nevada highway patrol shall enforce the regulations of the commission relating to the transport and handling of hazardous waste, as they affect the safety of drivers and vehicles and the leakage or spill of that waste from packages.

Sec. 11. NRS 459.585 is hereby amended to read as follows:

459.585 1. [Any] *Except as otherwise provided in subsection 2, a person who violates or contributes to a violation of any provision of NRS 459.400 to 459.560, inclusive, 459.590 or of any regulation adopted or permit or order issued pursuant to those sections, or who does not take action to correct a violation within the time specified in an order, is liable to the department for a civil penalty of not more than \$25,000 for each day on which the violation occurs. This penalty is in addition to any other penalty provided by NRS 459.400 to 459.600, inclusive.*

2. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no civil penalty may be imposed pursuant to this section against a person for his first violation of a regulation, unless the person is first issued an order pursuant to NRS 459.570 to correct the*

violation and fails to complete the corrective action within the time prescribed in that order.

3. The department may recover, in the name of the State of Nevada, actual damages which result from a violation, in addition to the civil penalty provided in this section. The damages may include expenses incurred by the department in removing, correcting or terminating any adverse effects which resulted from the violation and compensation for any fish, aquatic life or other wildlife destroyed as a result of the violation.

Sec. 12. NRS 459.856 is hereby amended to read as follows:

459.856 1. [Any] *Except as otherwise provided in subsection 2, a person who violates or contributes to a violation of any provision of NRS 459.800 to 459.856, inclusive, or of any regulation adopted or permit or order issued pursuant to those sections, or who does not take action to correct a violation within the time specified in an order, is liable to the department for a civil penalty of not more than \$5,000 for each day on which the violation occurs. This penalty is in addition to any other penalty provided by NRS 459.800 to 459.856, inclusive.*

2. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no civil penalty may be imposed pursuant to this section against a person for his first violation of a regulation, unless the person is first issued an order for corrective action pursuant to NRS 459.852 and fails to complete the corrective action within the prescribed time.*

3. The department may recover, in the name of the State of Nevada, actual damages which result from a violation, in addition to the civil penalty provided in this section. The damages may include expenses incurred by the department in removing, correcting or terminating any adverse effects which resulted from the violation and compensation for any damages incurred as a result of the violation.

Sec. 13. NRS 519A.280 is hereby amended to read as follows:

519A.280 1. [A] *Except as otherwise provided in subsection 2, a person who violates any provision of NRS 519A.010 to 519A.280, inclusive, or any regulation adopted by the commission pursuant to NRS 519A.160, is guilty of a misdemeanor and, in addition to any criminal penalty, is subject to a civil penalty imposed by the division at a hearing for which notice has been given, in an amount determined pursuant to the schedule adopted by the commission pursuant to NRS 519A.160.*

2. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no civil penalty may be imposed pursuant to subsection 1 against a person for his first violation of a regulation regarding the transportation, handling, treatment, storage, discharge, injection, disposal, reporting, testing or monitoring of any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.*

3. Any money received by the division pursuant to subsection 1 must be deposited in the state general fund.

4. *For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.*

Sec. 14. NRS 522.120 is hereby amended to read as follows:

522.120 1. [Any] *Except as otherwise provided in subsection 2, a person who willfully violates any provision of this chapter, or any regulation or order of the department is subject to a penalty of not more than \$1,000 for each act of violation and for each day that the violation continues, unless the penalty for the violation is otherwise provided for and made exclusive in this chapter.*

2. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no penalty may be imposed pursuant to subsection 1 against a person for his first violation of a regulation regarding the transportation, handling, treatment, storage, discharge, injection, disposal, reporting, testing or monitoring of any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.*

3. If any person, for the purpose of evading this chapter, or any regulation or order of the department, makes or causes to be made any false entry in any record, account or memorandum required by this chapter, or by any such regulation or order, or omits or causes to be omitted, from any such record,

account or memorandum, full, true and correct entries as required by this chapter, or by any such regulation or order, or removes from this state or destroys, mutilates, alters or falsifies any such record, account or memorandum, that person is guilty of a gross misdemeanor.

[3.] 4. Any person knowingly aiding or abetting any other person in the violation of any provision of this chapter, or any regulation or order of the department is subject to the same penalty as that prescribed by this chapter for the violation by the other person.

[4.] 5. The penalties provided in this section are recoverable by suit filed by the attorney general in the name and on behalf of the department in the district court of the county in which the defendant resides or in which any defendant resides, if there is more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty does not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation.

6. *For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.*

Sec. 15. NRS 590.605 is hereby amended to read as follows:

590.605 1. Whenever the board has reasonable grounds to believe that any applicant or licensee under NRS 590.465 to 590.645, inclusive, is violating any of the provisions of [NRS 590.465 to 590.645, inclusive,] *those sections*, or regulations or specifications adopted [hereunder, or] *pursuant to those sections*, is violating or failing to comply with any of the health and safety laws or

regulations in force in this state, or is acting or conducting his operations in any other manner which the board deems to be inimical and not to the best interests of the health, safety or welfare of the people of this state, the board may, after a hearing, suspend or revoke any or all licenses previously issued under the provisions of NRS 590.465 to 590.645, inclusive, or take such intermediate actions, including the imposition of fines, as it deems appropriate under the circumstances. If the board has reasonable grounds to believe that a licensee is delivering a lesser quantity of gas than he bills the customer for with the intent to defraud, that fact must be reported to the state sealer of weights and measures.

2. The board shall cite the licensee, upon notice, stating reasons and given not less than 10 days before the date set for the hearing, to appear and show cause, if any he has, why the license should not be revoked or suspended or other disciplinary action should not be taken.

3. The board may conduct investigations, summon and compel the attendance of witnesses, require the production of any records or documents and provide for the taking of depositions under the Nevada Rules of Civil Procedure in connection with such hearings.

4. If, upon hearing, the board is satisfied that the violation charged is true, or if the licensee fails to appear and show cause, the board may revoke or suspend the license summarily or take such intermediate action, including the imposition of a fine, as it deems appropriate.

5. Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no fine may be imposed pursuant to this section against a person for his first violation of a regulation regarding the transportation, handling, treatment, storage or discharge of liquefied petroleum gas, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.

6. The findings of the board pursuant to this section, the judgment and the order must be reduced to writing and filed in the permanent public records of the board. Copies must be furnished to the licensee and the complaining customer, if any. A licensee is entitled to judicial review of the order in the manner provided by chapter 233B of NRS. Enforcement of the board's order must be stayed until judicial review is completed.

[6.] 7. In any case where the board refuses to issue a license, or suspends or revokes a license, the applicant or accused may submit another application for the consideration of the board.

Sec. 16. NRS 618.625 is hereby amended to read as follows:

618.625 1. The division may assess administrative fines provided for in this chapter, giving due consideration to the appropriateness of the penalty with respect to the size of the employer, the gravity of the violation, the good faith of the employer and the history of previous violations.

2. For purposes of this chapter, a serious violation exists in a place of employment if there is a substantial probability that death or serious physical

harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use in that place of employment unless the employer did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

3. *Except as otherwise required:*

(a) By federal law or regulation;

(b) As a condition to the receipt of federal money; or

(c) Pursuant to a plan for the development and enforcement of standards relating to occupational safety and health approved by the Secretary of Labor pursuant to 29 U.S.C. § 667,

no administrative fine may be imposed pursuant to this chapter against a person for his first violation of a regulation, rule or standard adopted pursuant to this chapter regarding the transportation, handling, treatment, storage, discharge, disposal, reporting, testing or monitoring of, protection from or exposure to any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.

4. Administrative fines owed under this chapter must be paid to the division. The fines may be recovered in a civil action in the name of the division brought in a court of competent jurisdiction in the county where the

violation is alleged to have occurred or where the employer has his principal office.

5. For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.

Sec. 17. NRS 618.645 is hereby amended to read as follows:

618.645 [Any employer who has received] *Except as otherwise provided in subsection 3 of NRS 618.625, an employer who receives a citation for [a serious]*
:

1. A serious violation of any requirement of this chapter, or any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, must be assessed an administrative fine of not more than \$7,000 for each such violation. [If a violation]

2. A violation of any requirement of this chapter, or any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, that is specifically determined to be of a nonserious nature [an] , may be assessed an administrative fine of not more than \$7,000 . [may be assessed.]

Sec. 18. NRS 618.675 is hereby amended to read as follows:

618.675 *Except as otherwise provided in subsection 3 of NRS 618.625:*

1. An employer who fails to post the notice and records as required under the provisions of this chapter must be assessed an administrative fine of not more than \$7,000 for each violation.

2. An employer who fails to maintain the notice or notices and records required by this chapter must be assessed an administrative fine of not more than \$7,000 for each violation.

Sec. 19. NRS 618.835 is hereby amended to read as follows:

618.835 1. If the department finds that a person, other than a worker, who is licensed pursuant to NRS 618.795 has violated any of the provisions of NRS 618.780, 618.790, 618.820 or 618.825, or the standards or regulations adopted pursuant to NRS 618.750 to 618.850, inclusive, it may [:] , *except as otherwise provided in subsection 3 of NRS 618.625:*

(a) Upon the first violation, impose upon him an administrative fine of not more than \$15,000.

(b) Upon the second and subsequent violations:

(1) Impose upon the licensee an administrative fine of not more than \$25,000;

(2) Revoke his license; and

(3) Require him to fulfill certain training or educational requirements to have his license reinstated.

Any penalty imposed pursuant to this section does not relieve the licensee from criminal prosecution for engaging in the control of asbestos without a license, nor from the imposition of a penalty pursuant to NRS 445.601.

2. If the license of a contractor for projects for the control of asbestos is revoked pursuant to this section and the owner of a building or structure upon which the contractor is engaged in a project employs another licensed

contractor to complete the project, the original contractor may not bring an action against the owner of the building or structure for breach of contract or damages based on the employment of another contractor.

Sec. 20. NRS 703.380 is hereby amended to read as follows:

703.380 1. [Unless] *Except as otherwise provided in subsection 2 and unless* another penalty is specifically provided, any public utility or any officer, agent or employee of a public utility who:

(a) Violates any of the provisions of this chapter or chapters 704, 705, 708 and 712 of NRS;

(b) Violates any rule or regulation of the commission; or

(c) Fails, neglects or refuses to obey any order of the commission or any order of a court requiring compliance with an order of the commission, is liable for a civil penalty not to exceed \$1,000 per day for each day of the violation and not to exceed \$100,000 for any related series of violations.

2. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no civil penalty may be imposed pursuant to this section against a person for his first violation of a rule or regulation of the commission regarding the transportation, handling, treatment, storage, discharge, disposal, reporting, testing or monitoring of any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.*

3. The amount of any civil penalty to be imposed pursuant to this section, and the propriety of any compromise of a penalty, must be determined by a court of competent jurisdiction upon the complaint of the commission.

[3.] 4. Subject to the approval of the court, any civil penalty may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, must be considered.

[4.] 5. Any penalty assessed pursuant to this section is not a cost of service by the public utility and may not be included in any new application by a public utility for a rate adjustment or rate increase.

6. *For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.*

Sec. 21. NRS 706.771 is hereby amended to read as follows:

706.771 1. [Any] *Except as otherwise provided in subsection 3, a common or contract motor carrier or broker, or any agent or employee thereof, who violates any provision of this chapter, any lawful regulation of the commission or any lawful tariff on file with the commission or who fails, neglects or refuses to obey any lawful order of the commission or any court order for whose violation a civil penalty is not otherwise prescribed is liable to a penalty of not more than \$10,000 for any violation. The penalty must be recovered in a civil*

action upon the complaint of the commission in any court of competent jurisdiction.

2. If the commission does not bring an action to recover the penalty prescribed by subsection 1, the commission may , *except as otherwise provided in subsection 3*, impose an administrative fine of not more than \$10,000 for any violation of a provision of this chapter or any rule, regulation or order adopted or issued by the commission or department pursuant to the provisions of this chapter. A fine imposed by the commission may be recovered by the commission only after notice is given and a hearing is held pursuant to the provisions of chapter 233B of NRS.

3. *Except as otherwise required by federal law or regulation or as a condition to the receipt of federal money, no civil penalty or administrative fine may be imposed pursuant to this section against a person for his first violation of a rule or regulation of the commission or department regarding the transportation, handling, treatment, storage, discharge, disposal, reporting, testing or monitoring of any hazardous material, or the maintenance or inspection of any records regarding hazardous material, unless the person first receives written notice of the violation, which specifies a reasonable time to correct the violation, and the person fails to correct the violation within that time.*

4. All administrative fines imposed and collected by the commission pursuant to subsection 2 must be payable to the state treasurer and credited to

a separate account to be used by the commission to enforce the provisions of this chapter.

[4.] 5. A penalty or fine recovered pursuant to this section is not a cost of service for purposes of rate making.

6. *For the purposes of this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.*

SUMMARY--Provides for issuance of permits for transportation of radioactive waste by Nevada highway patrol division of department of motor vehicles and public safety with approval of public service commission of Nevada. (BDR 40-363)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous materials; repealing the duplicative authority of the public service commission of Nevada to issue permits for the transportation of radioactive waste; requiring the Nevada highway patrol division of the department of motor vehicles and public safety to issue such permits with the approval of the commission; and providing other matters properly relating thereto.

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

Section 1. Chapter 459 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *"Commission" means the state emergency response commission.*

Sec. 3. *"Common motor carrier of property" has the meaning ascribed to it in NRS 706.046.*

Sec. 4. *"Contract motor carrier" has the meaning ascribed to it in NRS 706.051.*

Sec. 5. *"Department" means the department of motor vehicles and public safety.*

Sec. 6. *"Director" means the director of the department of motor vehicles and public safety.*

Sec. 7. *"Division" means the Nevada highway patrol division of the department of motor vehicles and public safety.*

Sec. 8. *"Extremely hazardous material" means any material or combination of materials listed in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations.*

Sec. 9. *"Hazardous material" means any substance or combination of substances, including solids, semisolids, liquids or contained gases, which:*

1. Is identified as hazardous by the regulating agency as a result of studies undertaken to identify hazardous materials or wastes; and

2. Because of its quantity or concentration or its physical, chemical, radioactive or infectious characteristics may:

(a) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or

(b) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management,

including toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

Sec. 10. *"Person" includes any agency or political subdivision of this state.*

Sec. 11. *"Private motor carrier of property" has the meaning ascribed to it in NRS 706.111.*

Sec. 12. 1. *The division shall not issue to any common, contract or private motor carrier of property who is seeking to transport radioactive waste upon the highways of this state a permit required pursuant to NRS 459.705 without first obtaining the approval of the public service commission of Nevada.*

2. The public service commission of Nevada shall not approve the issuance of such a permit unless it determines that the carrier transporting the waste:

(a) Complies with the regulations of the public service commission of Nevada respecting the registration of interstate carriers; and

(b) Complies and will continue to comply with all laws and regulations of this state and the Federal Government respecting the handling and transport of radioactive waste and the safety of drivers and vehicles.

3. The division shall revoke a permit to transport radioactive waste issued pursuant to NRS 459.705 if it finds that, while transporting radioactive waste, the carrier has failed to comply with any laws or regulations of this state or the Federal Government respecting the handling or transport of radioactive waste and the safety of drivers or vehicles.

4. The division shall notify the public service commission of Nevada upon receiving information that, while transporting radioactive waste, a carrier has

failed to comply with any laws or regulations of this state or the Federal Government respecting the handling or transport of radioactive waste and the safety of drivers or vehicles. Upon being notified, the public service commission of Nevada may:

(a) Revoke a certificate issued pursuant to chapter 706 of NRS; or

(b) In the case of a carrier whose certificate is issued by the Interstate Commerce Commission, file a complaint with that commission.

Sec. 13. *1. A common, contract or private motor carrier of property who is transporting radioactive waste shall reject any package containing the waste which is tendered to him for transport in this state if the package:*

(a) Is leaking or spilling its contents;

(b) Does not bear a required shipping label; or

(c) Is not accompanied by a bill of lading or other shipping document in a form prescribed by the regulations of the state board of health.

2. A carrier who accepts radioactive waste for transport in this state is liable for any package in his custody which leaks or spills its contents, does not bear the required shipping label or is not accompanied by the required shipping documents, unless, in the case of a leak or spill of the waste and by way of affirmative defense, the carrier proves that he did not and could not know of the leak when he accepted the package for transport.

Sec. 14. NRS 459.250 is hereby amended to read as follows:

459.250 1. Peace officers of the public service commission of Nevada and the Nevada highway patrol shall enforce those provisions of NRS 459.221 and

[706.441] *sections 12 and 13 of this act* which govern the transport and handling of radioactive waste as they affect the safety of drivers or vehicles, the leakage or spill of radioactive waste from its package or the emission of ionizing radiation in an unsafe amount as established by the regulations of the state board of health.

2. The peace officer may:

(a) Impound a vehicle with unsafe equipment; or

(b) Detain a vehicle, if any waste has leaked or spilled from its package or if he has detected the emission of ionizing radiation in an unsafe amount, and order the driver of the vehicle to park it in a safe place, as determined by an officer designated by the health division of the department of human resources, pending remedial action by that division.

3. After a vehicle has been so detained, an officer designated by the health division of the department of human resources may order:

(a) The vehicle to be impounded;

(b) The leaked or spilled waste to be cleaned up;

(c) The contents of any unsafe or leaking package to be repackaged; or

(d) Any other appropriate precaution or remedy,

at the expense of the shipper or broker, carrier or other person who is responsible as determined by the health division of the department of human resources.

Sec. 15. NRS 459.428 is hereby amended to read as follows:

459.428 "Hazardous material" has the meaning ascribed to it in [NRS 459.700.] *section 9 of this act*, and includes the materials so identified and listed in regulations adopted by the director of the department of motor vehicles and public safety pursuant to NRS 459.710.

Sec. 16. NRS 459.490 is hereby amended to read as follows:

459.490 Regulations adopted by the commission pursuant to NRS 459.485 must be based upon studies, guidelines and regulations of the Federal Government and must:

1. Set out mechanisms for determining whether any waste is hazardous;
2. Govern combinations of wastes which are not compatible and may not be stored, treated or disposed of together;
3. Govern generation, storage, treatment and disposal of hazardous waste;
4. Govern operation and maintenance of facilities for the treatment, storage and disposal of hazardous waste, including the qualifications and requirements for ownership, continuity of operation, closure and care after closing;
5. Provide standards for location, design and construction of facilities for treatment, storage and disposal of hazardous waste;
6. Except as otherwise provided in NRS 459.700 to 459.780, inclusive, *and sections 2 to 13, inclusive, of this act*, govern the transportation, packing and labeling of hazardous waste in a manner consistent with regulations issued by the United States Department of Transportation relating to hazardous waste;
7. Provide procedures and requirements for the use of a manifest for each shipment of hazardous waste. The procedures and requirements must be

applied equally to those persons who transport hazardous waste generated by others and those who transport hazardous waste which they have generated themselves; and

8. Take into account climatic and geologic variations and other factors relevant to the management of hazardous waste.

Sec. 17. NRS 459.500 is hereby amended to read as follows:

459.500 1. Except as otherwise provided in NRS 459.700 to 459.780, inclusive, *and sections 2 to 13, inclusive, of this act*, or 459.800 to 459.856, inclusive:

(a) Regulations of the commission must provide:

(1) For safety in packaging, handling, transportation and disposal of hazardous waste, including safety of vehicles and drivers;

(2) For the certification of consultants involved in consultation regarding the response to and the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance, or the management of hazardous waste; and

(3) That a person employed full time by a business to act as such a consultant is exempt from the requirements of certification:

(I) If he is certified by the federal Occupational Safety and Health Administration to manage such waste, materials or substances; and

(II) While acting in the course of that full-time employment.

(b) Regulations of the commission may:

(1) Provide for the licensing and other necessary regulation of generators, including shippers, brokers and carriers, both intrastate and interstate, who cause that waste to be transported into or through Nevada or for disposal in Nevada;

(2) Require that the person responsible for a spill, leak or accident involving hazardous waste, hazardous material or a regulated substance, obtain advice on the proper handling of the spill, leak or accident from a consultant certified under the regulations adopted pursuant to subsection 1; and

(3) Establish standards relating to the education, experience, performance and financial responsibility required for the certification of consultants.

2. The regulations may include provisions for:

(a) Fees to pay the cost of inspection, certification and other regulation; and

(b) Administrative penalties of not more than \$2,500 per violation or \$10,000 per shipment for violations by persons licensed by the department, and the criminal prosecution of violations of its regulations by persons who are not licensed by the department.

3. Designated employees of the department, the public service commission of Nevada and the Nevada highway patrol shall enforce the regulations of the commission relating to the transport and handling of hazardous waste, as they affect the safety of drivers and vehicles and the leakage or spill of that waste from packages.

Sec. 18. NRS 459.700 is hereby amended to read as follows:

459.700 As used in NRS 459.700 to 459.780, inclusive, *and sections 2 to 13, inclusive, of this act*, unless the context otherwise requires [:

1. "Commission" means the state emergency response commission.

2. "Department" means the department of motor vehicles and public safety.

3. "Director" means the director of the department of motor vehicles and public safety.

4. "Division" means the Nevada highway patrol division of the department of motor vehicles and public safety.

5. "Extremely hazardous material" means any material or combination of materials listed in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations.

6. "Hazardous material" means any substance or combination of substances, including solids, semisolids, liquids or contained gases, which:

(a) Is identified as hazardous by the regulating agency as a result of studies undertaken to identify hazardous materials or wastes; and

(b) Because of its quantity or concentration or its physical, chemical, radioactive or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or

(2) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management,

including toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

7. "Person" includes any agency or political subdivision of this state.] , *the words and terms defined in sections 2 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 19. NRS 459.705 is hereby amended to read as follows:

459.705 1. Every person who transports in a motor vehicle upon the highways of this state hazardous materials which are required to be placarded in accordance with federal law shall, pursuant to regulations of the department:

(a) Obtain from the division a permit to transport the hazardous materials.

(b) Submit each motor vehicle used to transport the hazardous materials for an inspection pursuant to the regulations of the department as to the safety of the vehicle to transport hazardous materials.

2. The department shall adopt regulations concerning such permits. The regulations may require that the permit or a legible copy of the permit be carried in the driver's compartment of the motor vehicle at all times while the vehicle is used to transport hazardous materials.

3. *In addition to complying with the provisions of this section and any regulations adopted pursuant thereto, the division shall comply with the provisions of sections 12 and 13 of this act if an application is submitted for a permit to transport radioactive waste.*

Sec. 20. NRS 459.710 is hereby amended to read as follows:

459.710 1. The director shall adopt regulations providing for the:

(a) Granting, renewal, modification, suspension, revocation and denial of permits for motor vehicles which transport hazardous materials.

(b) Inspection of motor vehicles which transport hazardous materials on the highways of this state.

(c) Identification and listing of hazardous materials.

2. The regulations adopted pursuant to subsection 1 must include provisions for fees to pay the cost of inspection, issuing a permit and other regulation. All such fees adopted must be set to approximate the cost of providing the service for which the fee is charged. Except as otherwise provided in subsection 3, money received by the division from the fees must be deposited with the state treasurer for credit to the state general fund. The interest and income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund. Money received pursuant to this section must only be used for carrying out the provisions of NRS 459.700 to 459.725, inclusive [.] , *and sections 2 to 13, inclusive, of this act.*

3. The division shall deposit 20 percent of the money collected from fees imposed pursuant to this section with the state treasurer for credit to the contingency account for hazardous materials.

4. The division shall issue an identifying device to each motor vehicle transporting hazardous materials upon receipt of the appropriate application and fee and the satisfactory completion of the inspection for safety.

Sec. 21. NRS 459.725 is hereby amended to read as follows:

459.725 1. The director is responsible for administering the provisions of NRS 459.700 to 459.725, inclusive, *and sections 2 to 13, inclusive, of this act*, and may adopt regulations for that purpose.

2. The director shall adopt regulations:

(a) For the security of the repository for information concerning hazardous materials in Nevada so that it is adequately protected from fire, theft, loss, destruction, other hazards and unauthorized access.

(b) Prescribing the manner in which information concerning hazardous materials is submitted to the division by state and local governmental agencies.

Sec. 22. NRS 52.500 is hereby amended to read as follows:

52.500 1. Photographs, samples and writings describing the measurements, including actual net weight or estimated net weight, of hazardous waste or a hazardous material are admissible in evidence in lieu of the waste or material in any criminal or civil proceeding if they are authenticated.

2. As used in this section:

(a) "Hazardous material" has the meaning ascribed to it in [NRS 459.700.] *section 9 of this act*.

(b) "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

Sec. 23. NRS 484.779 is hereby amended to read as follows:

484.779 1. Except as otherwise provided in subsection 3, a local authority may adopt, by ordinance, regulations with respect to highways under its jurisdiction within the reasonable exercise of the police power:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Designating particular highways as one-way highways and requiring that all vehicles thereon be moved in one specific direction.

(c) Designating any highway as a through highway, requiring that all vehicles stop before entering or crossing the highway, or designating any intersection as a stop or a yield intersection and requiring all vehicles to stop or yield at one or more entrances to the intersection.

(d) Designating truck and bicycle routes.

(e) Adopting such other traffic regulations related to specific highways as are expressly authorized by this chapter.

2. An ordinance relating to traffic control enacted under this section is not effective until official [traffic-control] devices *for traffic control* giving notice of those local traffic regulations are posted upon or at the entrances to the highway or part thereof affected as is most appropriate.

3. An ordinance enacted under this section is not effective with respect to:

(a) Highways constructed and maintained by the department of transportation under the authority granted by chapter 408 of NRS; or

(b) Alternative routes for the transport of radioactive, chemical or other hazardous materials which are governed by regulations of the United States Department of Transportation,
until the ordinance has been approved by the board of directors of the department of transportation.

4. As used in this section, "hazardous material" has the meaning ascribed to it in [NRS 459.700.] *section 9 of this act.*

Sec. 24. NRS 706.074 is hereby amended to read as follows:

706.074 "Hazardous material" has the meaning ascribed to it in [NRS 459.700.] *section 9 of this act.*

Sec. 25. NRS 706.441 is hereby repealed.

TEXT OF REPEALED SECTION

706.441 Permit required unless exempted; duties and liability of carrier; revocation of certificate and permit for noncompliance.

1. No common, contract or private motor carrier of property may transport radioactive waste upon the highways of this state unless he obtains from the commission a permit specifically allowing him to transport radioactive waste. An interstate common or contract carrier must register with the commission the certificate issued to him by the Interstate Commerce Commission when he applies for such a permit.

2. The commission shall issue a permit to a carrier allowing him to transport radioactive waste if the carrier:

(a) Registers his certificate issued by the Interstate Commerce Commission and complies with the regulations of the commission respecting the registration of interstate carriers; or

(b) Demonstrates to the satisfaction of the commission that he complies and will continue to comply with all laws and regulations of this state and the Federal Government respecting the handling and transport of radioactive waste and the safety of drivers and vehicles.

3. A carrier of radioactive waste shall reject any package containing the waste which is tendered to him for transport in this state if the package is leaking or spilling its contents, or does not bear a shipping label or is not accompanied by a bill of lading or other shipping document in a form prescribed by the regulations of the state board of health. A carrier who accepts the waste for transport in this state is liable for any package in his custody which leaks or spills its contents, does not bear the required shipping label or is not accompanied by the required shipping documents, unless, in the case of a leak or spill of the waste and by way of affirmative defense, the carrier proves that he did not and could not know of the leak when he accepted the package for transport.

4. A carrier need not obtain the permit required by this section if he has been exempted from licensing by the health division of the department of human resources because he transports only radioactive waste the possession of which has been exempted from licensure pursuant to the regulations of the state board of health.

5. The commission may revoke a certificate issued pursuant to this chapter, and shall revoke a permit to transport radioactive waste issued pursuant to this section, or in the case of a carrier whose certificate is issued by the Interstate

Commerce Commission it may file a complaint with that commission, if it finds that, while transporting radioactive waste, the carrier has failed to comply with any laws or regulations of this state or the Federal Government respecting the handling or transport of radioactive waste and the safety of drivers or vehicles.

SUMMARY--Requires department of taxation to collect certain fees related to hazardous materials. (BDR 40-364)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous materials; requiring the department of taxation to collect certain fees related to hazardous materials; requiring the department, in cooperation with the state emergency response commission, to develop a program for the consolidation of the collection of fees related to the management of hazardous materials; and providing other matters properly relating thereto.

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

Section 1. NRS 459.3824 is hereby amended to read as follows:

459.3824 1. [The division shall charge and collect an inventory fee from each] *Each* person who is required to register pursuant to the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. No. 99-499) [. The inventory fee is \$100 and] *shall pay to the department of taxation an inventory fee of \$100. The inventory fees collected* must be used by the division to cover the costs incurred in developing the inventory of regulated facilities pursuant

to NRS 459.3828. Each such registrant shall pay the inventory fee one time only and is not required to pay an inventory fee for each separately located facility.

2. In addition, each registrant who is the owner of a regulated facility shall pay to the [division] *department of taxation* an annual fee based on the fiscal year. The annual fee for each registrant is the sum of a base fee set by the state environmental commission and any additional fee imposed by the commission pursuant to subsection 3. The annual fee must not be prorated or refunded.

3. The state environmental commission may impose an additional fee upon each registrant who is the owner of a regulated facility in an amount determined by the commission to be necessary to enable the division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive. The additional fee must be based on a graduated schedule adopted by the commission which takes into consideration the volume of hazardous substances located at each facility.

4. After the initial inventory and the payment of the initial annual fee, the [division] *department of taxation* shall send each registrant who is the owner of a regulated facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

5. All fees collected pursuant to this section and any interest earned thereon must be deposited with the state treasurer for credit to the fund for precaution against chemical accidents, which is hereby created as a special revenue fund.

Sec. 2. NRS 459.744 is hereby amended to read as follows:

459.744 The commission shall establish by regulation:

1. A schedule of fees for its services and regulatory activities. The fees must be set at an amount which approximates the cost to the commission of performing those services and activities.

2. A fee, not to exceed \$5,000 per year, to be paid by each person who stores an extremely hazardous material in an amount greater than the threshold planning quantity established for such material in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations. The fee must include:

(a) A filing fee for each facility in which such material is stored; and

(b) A surcharge for each ton of such material stored in excess of 1 ton, and must be paid *to the department of taxation* on or before March 30 of each year for the preceding calendar year.

3. A fee, not to exceed \$2,000 per year, to be paid by each person who manufactures for transport an extremely hazardous material in an amount greater than the threshold planning quantity established for such material in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations. The fee must include:

(a) A filing fee for each facility in which such material is manufactured; and

(b) A surcharge for each ton of such material which is manufactured for transport in this state,

and must be paid *to the department of taxation* on or before January 31 of each year for the preceding calendar year.

4. *The department of taxation shall deposit all fees collected pursuant to this section with the state treasurer for credit to the contingency account for hazardous materials.*

Sec. 3. NRS 459.746 is hereby amended to read as follows:

459.746 1. A reporting fee of \$500 must be paid to the [commission] *department of taxation* by all persons who are required to submit a toxic chemical release form pursuant to Public Law 99-499, except that a person must not be required to pay more than \$5,000 in reporting fees in any calendar year. The fee becomes due upon the filing of the form.

2. *The department of taxation shall deposit all fees collected pursuant to this section with the state treasurer for credit to the contingency account for hazardous materials.*

Sec. 4. NRS 477.045 is hereby amended to read as follows:

477.045 1. The state fire marshal shall establish a statewide training program for response to spills of hazardous materials and related fires. The state fire marshal shall require persons who store hazardous materials to obtain a permit to do so. The [state fire marshal] *department of taxation* shall collect a surcharge of \$60 for each such permit issued in the state. The surcharge is in addition to any other fee charged for the issuance of such a permit.

2. The revenue derived by the [state fire marshal] *department of taxation* pursuant to this section must be deposited with the state treasurer for credit to the contingency account for hazardous materials.

Sec. 5. 1. The department of taxation shall, in cooperation with the state emergency response commission, develop a program to consolidate the collection of fees related to the management of hazardous materials. The department shall report its findings and recommendations for the program to the 68th session of the Nevada legislature.

2. This section does not apply to fees related to the management of hazardous wastes.

3. As used in this section:

(a) "Hazardous material" has the meaning ascribed to it in NRS 459.700.

(b) "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

SUMMARY--Provides for coordination of regulatory activities relating to hazardous materials. (BDR 40-365)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous materials; designating the state emergency response commission as the state agency which is responsible for coordinating certain regulatory activities relating to hazardous materials; requiring state agencies and local governmental agencies responsible for the regulation of hazardous materials to cooperate in the management of certain activities relating to hazardous materials; and providing other matters properly relating thereto.

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

Section 1. Chapter 459 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The commission is the state agency responsible for coordinating:

(a) The collection of fees relating to hazardous materials;

(b) The adoption of regulations relating to hazardous materials; and

(c) The standardization of forms for reporting information relating to hazardous materials,

by state agencies and local governmental agencies responsible for the regulation of hazardous materials.

2. Each state agency or local governmental agency which is responsible for the regulation of hazardous materials shall, in consultation with the commission:

(a) Cooperate to eliminate any duplications, conflicts or inconsistencies in regulations relating to hazardous materials;

(b) Review periodically the forms for reporting information relating to hazardous materials to determine whether the forms are easy to understand and complete and, if appropriate, revise the forms accordingly;

(c) Cooperate, if possible, to develop a uniform format for reporting information relating to hazardous materials;

(d) Cooperate to ensure that local governmental agencies which respond to emergencies involving hazardous waste receive reports in a timely manner; and

(e) Consolidate, if possible, the collection of fees relating to hazardous materials.

Sec. 2. NRS 459.700 is hereby amended to read as follows:

459.700 As used in NRS 459.700 to 459.780, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Commission" means the state emergency response commission.

2. "Department" means the department of motor vehicles and public safety.

3. "Director" means the director of the department of motor vehicles and public safety.

4. "Division" means the Nevada highway patrol division of the department of motor vehicles and public safety.

5. "Extremely hazardous material" means any material or combination of materials listed in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations.

6. "Hazardous material" means any substance or combination of substances, including solids, semisolids, liquids or contained gases, which:

(a) Is identified as hazardous by the regulating agency as a result of studies undertaken to identify hazardous materials or wastes; and

(b) Because of its quantity or concentration or its physical, chemical, radioactive or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or

(2) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management, including toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

7. "Person" includes any agency or political subdivision of this state.

SUMMARY--Expands costs for which money may be expended and recovered regarding response to accident involving hazardous material.
(BDR 40-366)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous material; expanding the costs for which money may be expended and recovered regarding the response to an accident involving hazardous material; providing for notification of the legislature when certain of those costs cannot be recovered; and providing other matters properly relating thereto.

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

Section 1. Chapter 459 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *If the person responsible for a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance does not act promptly and appropriately to clean and decontaminate the affected area properly, and if his inaction presents an imminent and substantial hazard to*

human health, public safety or the environment, money from the account for the management of hazardous waste may be expended to pay the costs of:

- (a) Responding to the leak, spill or accident;*
- (b) Coordinating the efforts of state, local and federal agencies responding to the leak, spill or accident;*
- (c) Managing the cleaning and decontamination of an area for the disposal of hazardous waste or the site of the leak, spill or accident;*
- (d) Removing or contracting for the removal of hazardous waste, hazardous material or a regulated substance which presents an imminent danger to human health, public safety or the environment; or*
- (e) Services rendered in responding to the leak, spill or accident, by consultants certified pursuant to regulations adopted by the commission.*

2. The director shall demand reimbursement of the account for money expended pursuant to subsection 1 from any person who is responsible for the accident, leak or spill, or who owns or controls the hazardous waste, hazardous material or a regulated substance, or the area used for the disposal of the waste, material or substance. Payment of the reimbursement is due within 20 days after the person receives notice from the director of the amount due. The director shall impose an administrative penalty of not more than 5 percent of the amount of the reimbursement for each day the amount remains unpaid after the date the payment for reimbursement is due.

3. At the request of the director, the attorney general shall seek recovery by legal action of the amount of any unpaid reimbursement and penalty.

4. For the purposes of this section, "responding" means any efforts to mitigate, attempt to mitigate or assist in the mitigation of the effects of a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance, including, without limitation, efforts to:

(a) Enforce the law, maintain the peace and protect the public.

(b) Prevent and control fire.

(c) Contain and dispose of the hazardous waste, hazardous material or regulated substance.

(d) Clean and decontaminate the area affected by the leak, spill or accident.

(e) Investigate the occurrence of the leak, spill or accident.

Sec. 3. For the purposes of NRS 459.750 to 459.770, inclusive, "responding" means any efforts to mitigate, attempt to mitigate or assist in the mitigation of the effects of a spill of or accident involving hazardous material, including, without limitation, efforts to:

1. Enforce the law, maintain the peace and protect the public.

2. Prevent and control fire.

3. Contain and dispose of the hazardous material.

4. Clean and decontaminate the area affected by the spill or accident.

5. Investigate the occurrence of the spill or accident.

Sec. 4. NRS 459.530 is hereby amended to read as follows:

459.530 1. All proceeds from agreements entered into pursuant to NRS 459.505, all reimbursements and penalties recovered pursuant to [NRS 459.535,] *section 2 of this act*, and all fees collected, all civil penalties imposed

and all interest accrued pursuant to NRS 459.400 to 459.600, inclusive, *and section 2 of this act*, must be deposited with the state treasurer for credit to the account for the management of hazardous waste, which is hereby created in the state general fund. The money in the account must be paid as other claims against the state are paid.

2. The state treasurer shall account separately for each of the fees collected pursuant to NRS 459.512.

Sec. 5. NRS 459.535 is hereby amended to read as follows:

459.535 1. Except as otherwise provided in [subsections 2 and 3,] *section 2 of this act and subsection 2 of this section*, the money in the account for the management of hazardous waste may be expended only to pay the costs of:

- (a) The continuing observation or other management of hazardous waste;
- (b) Establishing and maintaining a program of certification of consultants involved in the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks or the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance;
- (c) Training persons to respond to accidents or other emergencies related to hazardous materials, including any basic training by the state fire marshal which is necessary to prepare personnel for advanced training related to hazardous materials;
- (d) Establishing and maintaining a program by the public service commission of Nevada to inspect and otherwise ensure the safety of any

shipment of hazardous materials transported by rail car through or within the state; and

(e) Financial incentives and grants made in furtherance of the program developed pursuant to paragraph (c) of subsection 2 of NRS 459.485 for the minimization, recycling and reuse of hazardous waste.

2. Money in the account for the management of hazardous waste may be expended to provide matching money required as a condition of any federal grant for the purposes of NRS 459.800 to 459.856, inclusive.

[3. If the person responsible for a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance does not act promptly and appropriately to clean and decontaminate the affected area properly, and if his inaction presents an imminent and substantial hazard to human health, public safety or the environment, money from the account may be expended to pay the costs of:

(a) Responding to a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance;

(b) Coordinating the efforts of state, local and federal agencies responding to a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance;

(c) Managing the cleaning and decontamination of an area for the disposal of hazardous waste or the site of a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance;

(d) Removing or contracting for the removal of hazardous waste, hazardous material or a regulated substance which presents an imminent danger to human health, public safety or the environment; or

(e) Services rendered in response to a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance, by consultants certified pursuant to regulations adopted by the commission.

4. The director shall demand reimbursement of the account for money expended pursuant to subsection 3 from any person who is responsible for the accident, leak or spill, or who owns or controls the hazardous waste, hazardous material or a regulated substance, or the area used for the disposal of the waste, material or substance. Payment of the reimbursement is due within 20 days after the person receives notice from the director of the amount due. The director shall impose an administrative penalty of not more than 5 percent of the amount of the reimbursement for each day the amount remains unpaid after the date the payment for reimbursement is due.

5. At the request of the director, the attorney general shall seek recovery by legal action of the amount of any unpaid reimbursement and penalty.]

Sec. 6. NRS 459.575 is hereby amended to read as follows:

459.575 In carrying out the provisions of NRS 459.400 to 459.560, inclusive, *and section 2 of this act*, the commission, the department and the attorney general may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary.

Sec. 7. NRS 459.700 is hereby amended to read as follows:

459.700 As used in NRS 459.700 to 459.780, inclusive, *and section 3 of this act*, unless the context otherwise requires:

1. "Commission" means the state emergency response commission.
2. "Department" means the department of motor vehicles and public safety.
3. "Director" means the director of the department of motor vehicles and public safety.
4. "Division" means the Nevada highway patrol division of the department of motor vehicles and public safety.
5. "Extremely hazardous material" means any material or combination of materials listed in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations.
6. "Hazardous material" means any substance or combination of substances, including solids, semisolids, liquids or contained gases, which:
 - (a) Is identified as hazardous by the regulating agency as a result of studies undertaken to identify hazardous materials or wastes; and
 - (b) Because of its quantity or concentration or its physical, chemical, radioactive or infectious characteristics may:
 - (1) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or
 - (2) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management,

including toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

7. "Person" includes any agency or political subdivision of this state.

Sec. 8. NRS 459.760 is hereby amended to read as follows:

459.760 1. Any state agency accruing expenses [for the cleaning and decontamination of the area affected by] *in responding to* a spill of *or* an accident involving hazardous material may present an itemized accounting of those expenses with a demand for reimbursement of those expenses to the person responsible for the hazardous material. Payment of the reimbursement must be made within 60 days after the person receives notice from the agency of the amount due. The agency shall impose an administrative penalty of 5 percent of the amount of the reimbursement for each day the amount remains unpaid after the date the payment for reimbursement is due.

2. *If the state agency cannot recover the full amount of reimbursement from the person responsible, it may report to the commission its need for additional funding. The commission shall notify the senate standing committee on finance and the assembly standing committee on ways and means during a regular or special session of the legislature, or the interim finance committee if the legislature is not in session, of the state agency's need for additional funding.*

3. At the request of the state agency, and at any time after the payment for reimbursement is due, the attorney general shall initiate recovery by legal action of the amount of any unpaid reimbursement and penalty.

Sec. 9. NRS 459.770 is hereby amended to read as follows:

459.770 Any county or city in this state may adopt an ordinance authorizing its legal representative to initiate recovery by legal action from the person responsible for any hazardous material involved in a spill or accident of the amount of any costs incurred by the county or city [for the cleaning and decontamination of an area affected by the] *in responding to the* spill of or accident involving hazardous material.

SUMMARY--Provides that person may offer free consultation to public agency regarding incidents involving hazardous materials without certification. (BDR 40-367)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous substances; providing that a person is exempt from the requirements of certification for the purpose of offering free consultation to an agency of the state or of a political subdivision of the state regarding incidents involving hazardous waste, materials or regulated substances; and providing other matters properly relating thereto.

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

Section 1. NRS 459.500 is hereby amended to read as follows:

459.500 1. Except as otherwise provided in NRS 459.700 to 459.780, inclusive, or 459.800 to 459.856, inclusive:

(a) Regulations of the commission must provide:

(1) For safety in packaging, handling, transportation and disposal of hazardous waste, including safety of vehicles and drivers;

(2) For the certification of consultants involved in consultation regarding the response to and the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance, or the management of hazardous waste; [and]

(3) That a person employed full time by a business to act as such a consultant is exempt from the requirements of certification:

(I) If he is certified by the federal Occupational Safety and Health Administration to manage such waste, materials or substances; and

(II) While acting in the course of that full-time employment [.] ; and

(4) That a person is exempt from the requirements of certification for the purpose of offering free consultation to an agency of the state or a political subdivision of the state.

(b) Regulations of the commission may:

(1) Provide for the licensing and other necessary regulation of generators, including shippers, brokers and carriers, both intrastate and interstate, who cause that waste to be transported into or through Nevada or for disposal in Nevada;

(2) Require that the person responsible for a spill, leak or accident involving hazardous waste, hazardous material or a regulated substance, obtain advice on the proper handling of the spill, leak or accident from a consultant certified under the regulations adopted pursuant to subsection 1; and

(3) Establish standards relating to the education, experience, performance and financial responsibility required for the certification of consultants.

2. The regulations may include provisions for:

(a) Fees to pay the cost of inspection, certification and other regulation; and

(b) Administrative penalties of not more than \$2,500 per violation or \$10,000 per shipment for violations by persons licensed by the department, and the criminal prosecution of violations of its regulations by persons who are not licensed by the department.

3. Designated employees of the department, the public service commission of Nevada and the Nevada highway patrol shall enforce the regulations of the commission relating to the transport and handling of hazardous waste, as they affect the safety of drivers and vehicles and the leakage or spill of that waste from packages.

Sec. 2. This act becomes effective upon passage and approval.

SUMMARY--Protects certain persons and organizations from liability for damages in regulating and removing hazardous materials.
(BDR 40-368)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: No.

AN ACT relating to hazardous materials; providing immunity from civil liability for certain governmental organizations and private persons in connection with those materials; and providing other matters properly relating thereto.

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

Section 1. Chapter 459 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *As used in sections 2 to 5, inclusive, of this act, unless the context otherwise requires, "hazardous material" has the meaning ascribed to it in NRS 459.700, and includes the materials so identified and listed in regulations adopted by the director of the department of motor vehicles and public safety pursuant to NRS 459.710 and any other substance which is regulated pursuant to this chapter.*

Sec. 3. 1. The state emergency response commission, each local emergency planning committee appointed by the commission, and their respective members are immune from liability for the death of or injury to persons, and for injury to property, resulting from the performance of their functions under this chapter and under Public Law 99-499 as that law existed on January 1, 1993.

2. Except as limited by sections 4 and 5 of this act, a person who provides equipment, advice or other assistance in mitigating or attempting to mitigate the effects of a discharge of hazardous material, or in preventing, cleaning up, or disposing of such a discharge, or in attempting to prevent, clean up, or dispose of such a discharge, is immune from liability for the death of or injury to persons, and for injury to property, resulting from those activities.

Sec. 4. The immunity provided by subsection 2 of section 3 of this act does not apply to:

1. Damages resulting from the person's gross negligence or his intentional, reckless or wanton misconduct;

2. A person:

(a) Whose act or failure to act was a cause of the discharge; or

(b) Who receives compensation other than:

(1) Reimbursement for his expenses in providing the equipment, advice or other assistance; or

(2) Compensation from his regular employer for the time during which he is engaged in rendering the assistance or advice.

Sec. 5. A person is entitled to immunity under subsection 2 of section 3 of this act only if:

1. In the case of one furnishing advice or assistance, he is trained in the handling of hazardous materials;

2. He was requested to provide the equipment, advice or other assistance by:

(a) The person responsible for the discharge;

(b) The division of emergency management of the department of the military;

(c) The division of enforcement for occupational safety and health of the department of industrial relations;

(d) The division of environmental protection of the state department of conservation and natural resources;

(e) The Nevada highway patrol division of the department of motor vehicles and public safety;

(f) The state fire marshal division of the department of commerce;

(g) The state emergency response commission or a local emergency planning committee appointed by the commission;

(h) A local fire department; or

(i) A local agency for law enforcement; and

3. Before the discharge occurs or at the scene of the discharge, he has entered into a written agreement with the requester of his services setting forth the terms and conditions of his participation.

Sec. 6. NRS 41.031 is hereby amended to read as follows:

41.031 1. The State of Nevada hereby waives its immunity from liability and action and hereby consents to have its liability determined in accordance with the same rules of law as are applied to civil actions against natural persons and corporations, except as otherwise provided in NRS 41.032 to 41.038, inclusive, [and] subsection 3 of this section [.] *and any statute which expressly provides for governmental immunity*, if the claimant complies with the limitations of NRS 41.032 to 41.036, inclusive, or the limitations of NRS 41.010. The State of Nevada further waives the immunity from liability and action of all political subdivisions of the state, and their liability must be determined in the same manner, except as otherwise provided in NRS 41.032 to 41.038, inclusive, [and] subsection 3 of this section [.] *and any statute which expressly provides for governmental immunity*, if the claimant complies with the limitations of NRS 41.032 to 41.036, inclusive.

2. An action may be brought under this section, in a court of competent jurisdiction of this state, against the State of Nevada, any agency of the state, or any political subdivision of the state. In an action against the state or any agency of the state, the State of Nevada must be named as defendant, and the summons and a copy of the complaint must be served upon the secretary of state. The secretary of state shall deliver a copy of the complaint to the risk management division of the department of administration.

3. The State of Nevada does not waive its immunity from suit conferred by Amendment XI of the Constitution of the United States.

SUMMARY--Directs Legislative Commission to study feasibility and desirability of creating Department of Public Safety. (BDR R-370)

CONCURRENT RESOLUTION--Directing the Legislative Commission to study the feasibility and desirability of creating a Department of Public Safety.

WHEREAS, Assembly Concurrent Resolution No. 79 of the 66th session of the Nevada Legislature directed the Legislative Commission to conduct an interim study of state laws relating to emergencies which may result from the use, production, storage, transportation and disposal of all types of hazardous materials; and

WHEREAS, The subcommittee appointed by the Legislative Commission determined that no centralized system is in place to coordinate the efforts of the various state agencies whose primary duty is protecting the public from hazardous materials; and

WHEREAS, The subcommittee determined that the creation of a Department of Public Safety, comprised of state agencies whose primary duty is protecting the public, except those employing law enforcement officers, may provide a centralized system which is more effective in protecting the public than the current system; and

SUMMARY--Limits authority of division of enforcement for industrial safety and health of department of industrial relations to adopt certain regulations relating to hazardous materials. (BDR 53-371)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to occupational safety; limiting the authority of the division of enforcement for industrial safety and health of the department of industrial relations to adopt regulations relating to occupational safety and health for fire fighters and persons who respond to accidents and incidents involving hazardous materials; and providing other matters properly relating thereto.

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

Section 1. NRS 618.305 is hereby amended to read as follows:

618.305 [The] *1. Except as otherwise provided in subsection 2, the division may consider the following sources in adopting standards [under] pursuant to this chapter:*

[1.] *(a) American National Standards Institute (ANSI).*

[2.] *(b) American Society of Mechanical Engineers (ASME).*

[3.] (c) American Society for Testing and Materials (ASTM).

[4.] (d) Code of Federal Regulations (CFR).

[5.] (e) National Electrical Code (NEC).

[6.] (f) National Fire Protection Association (NFPA).

[7.] (g) Any national consensus standard.

[8.] (h) Any safety order legally adopted by the division.

2. *The division shall not adopt any standards pursuant to this chapter for fire fighters or persons who respond to accidents and incidents involving hazardous materials except those standards which are set forth in the Code of Federal Regulations.*

3. *As used in this section, "hazardous materials" has the meaning ascribed to it in NRS 459.700.*

Sec. 2. The division of enforcement for industrial safety and health of the department of industrial relations shall, not later than October 1, 1993, repeal any standards adopted pursuant to chapter 618 of NRS for fire fighters or persons who respond to accidents and incidents involving hazardous materials which do not comply with the provisions of section 1 of this act.

Sec. 3. 1. This section and section 2 of this act become effective on July 1, 1993.

2. Section 1 of this act becomes effective on October 1, 1993.

SUMMARY--Requires Nevada highway patrol division to develop training program relating to hazardous materials. (BDR 43-372)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to hazardous materials; requiring the Nevada highway patrol division of the department of motor vehicles and public safety to develop a training program relating to hazardous materials and offer the program to employees of law enforcement agencies; requiring the training program to be certified by the peace officers' standards and training committee; and providing other matters properly relating thereto.

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

Section 1. Chapter 481 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Nevada highway patrol shall develop a training program relating to hazardous materials and offer the program to employees of law enforcement agencies and instructors of employees of law enforcement agencies. Before the

training program is offered, it must be certified by the peace officers' standards and training committee.

2. As used in this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.

SUMMARY--Requires state fire marshal to establish mobile training team to train volunteer firemen to respond to incidents involving hazardous materials. (BDR 42-373)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to the state fire marshal; requiring the state fire marshal to establish a mobile training team to train volunteer firemen to respond to incidents involving hazardous materials; requiring the state fire marshal to conduct a study regarding the training of hazardous materials technicians, hazardous material specialists and on scene incident commanders; and providing other matters properly relating thereto.

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

Section 1. Chapter 477 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The state fire marshal shall establish a mobile training team to train volunteer firemen to respond to incidents involving hazardous materials. The mobile training team shall provide the training at a location within each fire

protection district served by volunteer firemen. The mobile training team must consist of two instructors and one training officer.

2. The state fire marshal shall have the goal of providing to all volunteer firemen training in compliance with the requirements for the first responder awareness level set forth in 29 C.F.R. § 1910.120.

3. As used in this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.

Sec. 2. Section 1 of this act is hereby amended to read as follows:

Section 1. 1. The state fire marshal shall establish a mobile training team to train volunteer firemen to respond to incidents involving hazardous materials. The mobile training team shall provide the training at a location within each fire protection district served by volunteer firemen. The mobile training team must consist of two instructors and one training officer.

2. The state fire marshal shall have the goal of providing to all volunteer firemen training in compliance with the requirements for the first responder [awareness] *operations* level set forth in 29 C.F.R. § 1910.120.

3. As used in this section, "hazardous material" has the meaning ascribed to it in NRS 459.700.

Sec. 3. 1. The state fire marshal shall conduct a study of the feasibility of using the mobile training team established pursuant to section 1 of this act to provide to hazardous materials technicians, hazardous materials specialists and

on scene incident commanders training in compliance with the requirements set forth in 29 C.F.R. § 1910.120.

2. The state fire marshal shall submit a report of the findings of the study to the director of the legislative counsel bureau for transmittal to the 68th session of the legislature.

3. As used in this section:

(a) "Hazardous material" has the meaning ascribed to it in NRS 459.700.

(b) "Hazardous materials specialist" means a volunteer fireman who responds with and provides support to a hazardous materials technician and acts as the site liaison with agencies of the local, state and Federal governments.

(c) "Hazardous materials technician" means a volunteer fireman who responds to a release or potential release of hazardous materials for the purpose of stopping the release.

(d) "On scene incident commander" means a volunteer fireman who assumes control of the scene of the incident involving hazardous materials.

Sec. 4. 1. Section 2 of this act becomes effective on April 1, 1995.

2. This section and sections 1 and 3 of this act become effective on October 1, 1993.

SUMMARY--Requires state fire marshal to study levels of training concerning hazardous materials that firemen in rural areas have received and propose alternative methods for additional training. (BDR S-374)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to the state fire marshal; requiring the state fire marshal to study the levels of training concerning hazardous materials that firemen in rural areas have received; requiring the state fire marshal to determine the level of training needed in each rural area and to propose alternative methods for additional training; and providing other matters properly relating thereto.

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

Section 1. 1. The state fire marshal shall conduct a study of the levels of training concerning hazardous materials that paid and volunteer firemen in rural areas of this state have received.

2. During the course of the study, the state fire marshal shall consult with the chief officer of each organized fire department located in the rural areas of

this state to determine the level of training concerning hazardous materials needed in each rural area.

3. After determining the level of training needed in each rural area, the state fire marshal shall propose alternative methods by which firemen may obtain the level of training needed for the rural area in which they serve. The alternative methods for obtaining the necessary training may include, but are not limited to:

- (a) Home studies;
- (b) Regional seminars in this state; and
- (c) Flexible scheduling of courses of training administered by the state fire marshal to meet the special needs of volunteer firemen in rural areas.

SUMMARY--Requires state fire marshal to adopt regulations establishing standards for training and education for required certification of firemen and persons who respond to incidents involving hazardous material. (BDR 42-375)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to emergency services; requiring the certification of firemen and persons who respond to incidents involving hazardous material; requiring the state fire marshal to adopt regulations establishing standards for training and education for certification; requiring the attorney general or his deputy to assist in the development of such regulations; and providing other matters properly relating thereto.

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

Section 1. Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. 1. *The state fire marshal shall adopt regulations establishing standards for training and education for the certification of paid and volunteer*

firemen. The standards must be consistent with the regulations governing fire brigades set forth in 29 C.F.R. § 1910.156, as it existed on January 1, 1993.

2. In adopting regulations pursuant to subsection 1, the state fire marshal shall consult with:

(a) The state board of fire services;

(b) The division of enforcement for industrial safety and health of the department of industrial relations; and

(c) Local fire departments.

Sec. 3. A person shall not serve as a paid or volunteer fireman unless he is certified pursuant to section 4 of this act.

Sec. 4. Any agency or political subdivision of the state or of a local government may certify a person to serve as a paid or volunteer fireman if the person seeking certification has successfully completed training and education in compliance with the standards established by the state fire marshal pursuant to section 2 of this act.

Sec. 5. As used in sections 5 to 8, inclusive, unless the context otherwise requires, "hazardous material" has the meaning ascribed to it in NRS 459.700.

Sec. 6. 1. The state fire marshal shall adopt regulations establishing standards for training and education for the certification of persons serving voluntarily or employed by any private or public employer to respond to incidents involving hazardous material. The regulations adopted pursuant to this subsection must be consistent with:

(a) The regulations governing hazardous waste operations and emergency response set forth in 29 C.F.R. § 1910.120, as it existed on January 1, 1993;

(b) The regulations governing worker protection set forth in 40 C.F.R. Part 311, as it existed on January 1, 1993; and

(c) Standards 471 and 472 of the 1991 edition and standard 473 of the 1992 edition of the Codes and Standards of the National Fire Protection Association relating to response to incidents involving hazardous material.

2. In adopting the regulations pursuant to subsection 1, the state fire marshal shall consult with appropriate state and local agencies, including, but not limited to:

(a) The division of enforcement for industrial safety and health of the department of industrial relations;

(b) The division of emergency management of the department of the military;

(c) The Nevada highway patrol division of the department of motor vehicles and public safety;

(d) Local fire departments; and

(e) Local law enforcement agencies.

Sec. 7. A person shall not serve voluntarily or be employed by any private or public employer to respond to incidents involving hazardous material unless he is certified pursuant to section 8 of this act.

Sec. 8. Any agency or political subdivision of the state or of a local government may certify a person to respond to incidents involving hazardous material if the person seeking certification has successfully completed training

and education in compliance with the standards established by the state fire marshal pursuant to section 6 of this act.

Sec. 9. When a training curriculum for public employees who respond to incidents involving hazardous material is developed by the Secretary of Transportation pursuant to 49 U.S.C. 1815(g), the state fire marshal shall, if he deems appropriate or is required to do so by any federal law or regulation, amend the regulations adopted pursuant to section 6 of this act to incorporate the training curriculum.

Sec. 10. The attorney general or his deputy shall assist the state fire marshal in the development of regulations establishing the standards for training and education pursuant to sections 2 and 6 of this act.

Sec. 11. 1. This section and sections 1, 2, 4, 5, 6, 8, 9 and 10 of this act become effective on October 1, 1993.

2. Sections 3 and 7 of this act become effective on July 1, 1994.

SUMMARY--Creates committee to study designation of safe areas for transporters of hazardous materials. (BDR S-376)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Contains Appropriation.

AN ACT relating to hazardous materials; creating a committee to study the designation of safe areas for transporters of hazardous materials; providing for its organization; prescribing its powers and duties; making an appropriation; and providing other matters properly relating thereto.

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

Section 1. As used in sections 2 to 5, inclusive, of this act, unless the context otherwise requires:

1. "Hazardous material" has the meaning ascribed to it in NRS 459.700.
2. "Safe area" means an area where a motor vehicle that is transporting a hazardous material can park or stand so that it does not pose a threat to human health, public safety and the environment.

Sec. 2. 1. The committee to study the designation of safe areas for transporters of hazardous materials, consisting of seven members appointed by the governor, is hereby created.

2. The governor shall appoint to the committee:

(a) One member who represents the Nevada department of transportation;

(b) One member who represents the Nevada highway patrol division of the department of motor vehicles and public safety;

(c) One member who represents the division of emergency management of the department of the military;

(d) One member who represents the public service commission of Nevada;

(e) One member who represents the Nevada Association of Counties;

(f) One member who represents the Nevada League of Cities; and

(g) One member who represents the trucking industry in this state.

3. The members of the committee shall elect a chairman and vice chairman from among their membership.

4. The Nevada department of transportation shall provide a secretary for the committee.

Sec. 3. The committee may hold public hearings at such times and places as it deems necessary to afford members of the general public, representatives of local governments and organizations interested in the designation of safe areas an opportunity to present relevant information and recommendations.

Sec. 4. The committee shall study the benefits, detriments and costs of establishing safe areas, including, without limitation:

1. An assessment of the need to establish safe areas throughout the state.
2. Any potentially adverse effects of designating safe areas and the ways of mitigating those effects.

3. The criteria to be used to designate safe areas.

4. Plans for the routing of shipments of hazardous materials to safe areas.

Sec. 5. The committee shall:

1. Establish guidelines and model ordinances to assist local governments in the designation and regulation of safe areas.

2. Submit a report of its findings, the guidelines and ordinances established pursuant to subsection 1, and any recommendations for appropriate legislation to the 68th session of the Nevada legislature.

3. Upon request, provide the guidelines and model ordinances to local governments at no cost.

Sec. 6. There is hereby appropriated from the state general fund to the committee to study the designation of safe areas for transporters of hazardous materials created pursuant to section 2 of this act the sum of \$75,000 to carry out the provisions of this act.

Sec. 7. Any remaining balance of the appropriation made by section 6 of this act must not be committed for expenditure after June 30, 1995, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 8. This act becomes effective on July 1, 1993.

Sec. 9. This act expires by limitation on July 1, 1995.

SUMMARY--Directs state fire marshal to conduct study of feasibility of establishing regional response teams to respond to incidents involving hazardous materials. (BDR R-377)

CONCURRENT RESOLUTION--Directing the state fire marshal to conduct a study of the feasibility of establishing regional response teams to respond to incidents involving hazardous materials.

WHEREAS, Incidents involving the release of hazardous materials into the environment are a serious threat to the health and safety of the residents of the State of Nevada; and

WHEREAS, The population and the availability of resources for responding to incidents involving hazardous materials varies greatly among the regions of the State of Nevada; and

WHEREAS, Teams of persons trained in the emergency response to incidents involving hazardous materials are necessary to provide a coordinated response to such incidents in all areas of the State of Nevada; and

WHEREAS, Such regional response teams can respond to incidents involving hazardous materials in a quick and efficient manner to protect the health and safety of the residents of the State of Nevada; and

WHEREAS, The creation of such regional response teams is necessary to complete a comprehensive plan for emergency response in the State of Nevada; now, therefore, be it

RESOLVED BY THE OF THE STATE OF NEVADA, THE

CONCURRING, That the State Fire Marshal conduct a study of the feasibility of creating regional response teams to respond to incidents involving hazardous materials; and be it further

RESOLVED, That in conducting the study, the State Fire Marshal shall consult with the State Emergency Response Commission and shall make reasonable efforts to consult with local emergency planning committees, with persons trained in the response to incidents involving hazardous materials and with other agencies of local governments responsible for responding to emergencies; and be it further

RESOLVED, That the study include an evaluation of:

1. The equipment and vehicles necessary to create regional response teams;
2. The required number of personnel necessary to staff the regional response teams;
3. The required levels of training for personnel staffing the regional response teams;
4. The areas in the state to comprise regions and the locations of response units within the regions;
5. The number of regional response teams necessary for the state;
6. The initial costs involved in creating regional response teams; and
7. The costs involved in maintaining regional response teams;

and be it further

RESOLVED, That the State Fire Marshal report the results of the study and any recommended legislation to the Director of the Legislative Counsel Bureau on or before January 1, 1995, for distribution to the 68th session of the Nevada Legislature; and be it further

RESOLVED, That the of the prepare and transmit a copy of this resolution to the State Fire Marshal.

SUMMARY--Directs State Emergency Response Commission to conduct study concerning local emergency planning committees and agreements of mutual aid between local entities responding to incidents involving hazardous materials. (BDR R-378)

CONCURRENT RESOLUTION--Directing the State Emergency Response Commission to conduct a study concerning districts served by local emergency planning committees and the feasibility of agreements of mutual aid between local entities that respond to incidents involving hazardous materials..

WHEREAS, Incidents involving the release of hazardous materials into the environment are a serious threat to the health and safety of the residents of the State of Nevada; and

WHEREAS, The resources of districts served by local emergency planning committees, including the availability of equipment and personnel, are presently unknown; and

WHEREAS, The needs of districts served by local emergency planning committees, including their needs to enable them to respond quickly and efficiently to potential future incidents or risks relating to hazardous materials, are also presently unknown; and

WHEREAS, An evaluation of the resources and needs of districts served by local emergency planning committees is necessary to determine the desirability

and feasibility of establishing agreements of mutual aid between local entities that respond to incidents involving hazardous materials; and

WHEREAS, Agreements of mutual aid may benefit certain areas in Nevada because the joining of resources may help provide a quick and efficient response to incidents involving hazardous materials in a cost effective manner; now, therefore, be it

RESOLVED BY THE OF THE STATE OF NEVADA, THE

CONCURRING, That the State Emergency Response Commission is hereby directed to conduct a study of the resources and needs of the districts served by local emergency planning committees and the desirability and feasibility of establishing agreements of mutual aid between local entities that respond to incidents involving hazardous materials; and be it further

RESOLVED, That the study include an evaluation of districts served by local emergency planning committees to determine:

1. The equipment available to respond to incidents or risks relating to hazardous materials;
2. The number of paid and volunteer persons who respond to incidents involving hazardous materials;
3. The levels of training of paid and volunteer persons who respond to incidents involving hazardous materials;
4. Past incidents or risks relating to hazardous materials;
5. Potential future incidents or risks relating to hazardous materials;

6. Areas in Nevada that may benefit from agreements of mutual aid between local entities that respond to incidents involving hazardous materials;

7. The capability of providing the minimal response necessary to mitigate risks arising out of incidents involving hazardous materials until special equipment or trained personnel arrive; and

8. The amount of revenue needed to achieve the capability of providing the minimal response necessary to mitigate risks arising out of incidents involving hazardous materials, with and without the establishment of mutual aid agreements;

and be it further

RESOLVED, That the Chairman of the State Emergency Response Commission submit a report of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau on or before January 1, 1995, for distribution to the 68th session of the Nevada Legislature; and be it further

RESOLVED, That the _____ of the _____ prepare and transmit a copy of this resolution to the Chairman of the State Emergency Response Commission.

SUMMARY--Clarifies definition of emergency management. (BDR 36-379)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to emergency management; clarifying the definition of emergency management; and providing other matters properly relating thereto.

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

Section 1. NRS 414.035 is hereby amended to read as follows:

414.035 "Emergency management" means the preparation for and the carrying out of [all emergency functions, other than functions] *a comprehensive program of activities, other than those activities* for which military forces are primarily responsible, to [prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake or other natural causes. These functions include] *mitigate the effects of, prepare for, respond to and recover from, emergencies of any kind, including, without limitation, efforts to:*

1. *Eliminate or reduce the probability that an emergency will occur;*

2. *Prepare state and local governmental agencies, private organizations and other persons to be capable of responding appropriately if an emergency occurs;*

3. *Prevent and alleviate injury or damage to persons or property during an emergency and to increase the probability of recovery from an emergency; and*

4. *Return persons and property affected by an emergency to a condition that is comparable to what existed before the emergency occurred.*

The term includes activities related to fire fighting, police services, medical and health services, searches, rescues, engineering, air raid warning services, communications, radiological, chemical and other special weapons of defense, evacuation of persons from stricken areas, emergency welfare services (civilian war aid), emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, [and] other functions related to civilian protection, [together with] and all other activities necessary or incidental to the preparation for and carrying out of [the foregoing functions.] any of these activities.

SUMMARY--Requires state agencies to develop and update plan for emergency management. (BDR 36-380)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to emergency management; requiring agencies in the executive branch of the state government to develop and periodically update a plan for emergency management; and providing other matters properly relating thereto.

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

Section 1. Chapter 414 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each agency in the executive branch of the state government shall develop a plan for emergency management. The plan must include procedures for:

(a) Ensuring the safety and protection of the employees of the agency if an emergency occurs during office hours; and

(b) Providing any necessary services for which the agency is responsible to protect the health and safety of persons and property during an emergency.

2. Each such agency shall:

- (a) Submit its plan to the division of emergency management for review; and*
- (b) Review and update its plan not less than every 3 years.*

Sec. 2. Each agency in the executive branch of state government shall submit a plan for emergency management required by section 1 of this act to the division of emergency management of the department of the military on or before July 1, 1994.

SUMMARY--Creates state board for management of information.
(BDR 18-381)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to information; abolishing the advisory board on telecommunications, state communications board and advisory committee for data processing; creating the state board for management of information to assume the duties of the abolished boards and committee; directing a study to improve the management of information concerning hazardous materials; and providing other matters properly relating thereto.

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

Section 1. NRS 232.190 is hereby amended to read as follows:

232.190 The director:

1. Is responsible for the administration, through the divisions of the department, of the provisions of NRS [233F.200 to 233F.280, inclusive,] *233F.260, 233F.270 and 233F.280 and* chapters 331, 333, 336 and 344 of NRS

and all other provisions of law relating to the functions of the divisions of the department.

2. Has such other powers and duties as are provided by law.

Sec. 2. NRS 233F.010 is hereby amended to read as follows:

233F.010 As used in [NRS 233F.010 to 233F.170, inclusive,] *this chapter*, the terms defined in NRS 233F.020 to 233F.060, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 233F.030 is hereby amended to read as follows:

233F.030 "Board" means the state [communications board.] *board for management of information.*

Sec. 4. NRS 233F.090 is hereby amended to read as follows:

233F.090 1. The state [communications] *board for management of information* is hereby created.

2. The board consists of [a chairman and four members, who:

(a) Are] *11 members* appointed by the governor . [from among those using the state communications system.

(b) Serve at the pleasure of the governor and are responsible to him.

2. The governor may appoint additional persons to act in an advisory capacity to the board. The additional persons may not vote on matters before the board.]

3. *The members of the board shall elect a chairman and a vice chairman from among their membership.*

Sec. 5. NRS 233F.100 is hereby amended to read as follows:

233F.100 1. The board may meet at such times and places as are specified by a call of the chairman.

2. The chairman of the board shall appoint technical representatives to serve on a technical advisory committee which is hereby created to serve the board.

3. Members of the board shall serve without compensation but may be reimbursed [from the fund for the communications subdivision of the Nevada highway patrol] for necessary travel and per diem expenses in the amounts provided for state officers and employees.

Sec. 6. NRS 233F.150 is hereby amended to read as follows:

233F.150 All state agencies shall provide the [state communications] board with any information which the board requests for the purpose of implementing the provisions of [NRS 233F.010 to 233F.170, inclusive,] *this chapter*, except where the disclosure of such information is expressly prohibited by law, and otherwise cooperate and assist to the maximum extent possible in the development and joint use of the state communications system.

Sec. 7. NRS 233F.260 is hereby amended to read as follows:

233F.260 The board shall [provide advice to] *direct the telecommunications division of the department of general services* on the use of telecommunications by the state government including:

1. The development of policies, standards, plans and designs;
2. The procurement of systems, facilities and services;

3. The integration of telecommunications systems with other state and local governmental systems; and

4. New technology that may become or is available.

Sec. 8. NRS 233F.270 is hereby amended to read as follows:

233F.270 1. The [division, with the advice] *telecommunications division of the department of general services, under the direction* of the board, shall plan, implement and administer a state telecommunications system. When available at a competitive cost, the *telecommunications* division shall use the facilities of telephone companies providing local exchange service.

2. The system must be integrated and may include services between the state and any cities, counties and schools.

3. Except as otherwise provided in NRS 233F.280, the *telecommunications* division may consider for the system all the telecommunications requirements of the state and its political subdivisions.

Sec. 9. NRS 233F.280 is hereby amended to read as follows:

233F.280 The provisions of NRS [233F.200 to 233F.280, inclusive,] 233F.260, 233F.270 and 233F.280 do not limit or affect the powers and duties of the [state communications board or the supervisor of the communications subdivision of the Nevada highway patrol division of the department of motor vehicles and public safety.] *coordinator of communications*.

Sec. 10. NRS 242.011 is hereby amended to read as follows:

242.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS [242.021] 242.031 to 242.068, inclusive, have the meanings ascribed to them in those sections.

Sec. 11. NRS 242.121 is hereby amended to read as follows:

242.121 1. [There is hereby created an advisory committee for data processing whose members are:

- (a) The director;
- (b) Three other directors of departments of the state government selected by the governor;
- (c) Two other members who are not public officers or employees, appointed by the governor; and
- (d) One member appointed by the majority floor leader of the senate from the membership of the senate standing committee on finance during the immediately preceding session of the legislature, and one member appointed by the speaker of the assembly from the membership of the assembly standing committee on ways and means during that session.

The governor shall appoint the chairman of the committee from among its members.

2. The committee may meet as often as necessary and may meet regularly at least once every 3 months. Members of the committee who are officers or employees in the executive department of the state serve without additional compensation. Members who are legislators or who are not public officers or

employees are entitled to a salary of \$80 for each day or part of a day spent on business of the committee.

3. The committee shall advise the director on matters relating to] *The state board for management of information shall formulate* policies for data processing by elected officers of the state and state agencies, including:

(a) Standards for systems and programming; and

(b) Criteria for the selection, location and use of equipment for data processing,

so that needs for data processing of officers and agencies may be met at the least cost and with the use of the latest developments in the field of data processing.

2. *The director shall execute and enforce the policies and other decisions of the board.*

Sec. 12. NRS 233F.200, 233F.210, 233F.220, 233F.230, 233F.240, 233F.250 and 242.021 are hereby repealed.

Sec. 13. The state board for management of information shall study the needs for information on the part of state and local agencies that are involved in the management of hazardous materials, including those that respond to emergencies. The board shall report to the 68th session of the legislature its findings and recommendations from that study, including proposals to:

1. Put into effect a system which would allow information on hazardous materials to be sent to, received by, and stored by any state or local agency that needs the information;

2. Create a single repository and network for communicating information concerning hazardous materials which would be accessible to all agencies in the state that first respond to the occurrence or threat of a discharge of hazardous materials; and

3. Improve public access to information concerning hazardous materials.

Sec. 14. In preparing the reprint of the Nevada Revised Statutes, the legislative counsel shall change any reference to the "advisory board on telecommunications," "state communications board" or "advisory committee for data processing" to refer to the "state board for management of information" in any section which is not amended by this act or is further amended by another act.

LEADLINES OF REPEALED SECTIONS

233F.200 Definitions.

233F.210 "Board" defined.

233F.220 "Department" defined.

233F.230 "Division" defined.

233F.240 Advisory board on telecommunications: Creation; members; terms of legislative members; chairman and vice chairman.

233F.250 Advisory board on telecommunications: Meetings; compensation and expenses of members.

242.021 "Committee" defined.