

NEVADA LEGISLATURE

Eighty-First Session, 2021

ASSEMBLY DAILY JOURNAL

THE SEVENTY-SECOND DAY

CARSON CITY (Tuesday), April 13, 2021

Assembly called to order at 12:27 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Rabbi Benjamin Zober.

Ruler of the universe, may those who guide our state be constantly mindful of our mission to stand as exemplars of justice, protectors of the weak, foes of unrighteousness, lovers of peace. So imbue all with these ideals that our state may stand as refuge for those oppressed, sanctuary of liberty, haven of peace. May Your blessing rest in this holy place of liberty. May Your blessings rest upon the legislators: upon all those entrusted with guardianship of our rights. May peace and good thrive in our state. May blessings spread among us.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 51, 130, 190, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 177, 250, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SANDRA JAUREGUI, *Chair*

Mr. Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 68, 247, 261, 319, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHANNON BILBRAY-AXELROD, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 338, 357, 362, 365, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 52, 143, 186, 325, 437, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 131, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

EDGAR FLORES, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 273, 344, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was referred Assembly Bill No. 351, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

ROCHELLE T. NGUYEN, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 8, 30, 33, 37, 43, 59, 104, 113, 125, 160, 212, 230, 237, 241, 284, 393, 394, 401, 403, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVE YEAGER, *Chair*

Mr. Speaker:

Your Committee on Revenue, to which was referred Assembly Bill No. 69, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

LESLEY E. COHEN, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 12, 2021

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 32, 161, 248, 249, 362.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 14, 38, 68, 141.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Joint Resolutions Nos. 11, 12.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that all bills reported out of committee be immediately placed on the appropriate reading file through Tuesday, April 20, 2021.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 214 be withdrawn from the Committee on Ways and Means.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 118 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assembly Joint Resolution No. 1.

Resolution read.

Remarks by Assemblywoman Titus.

ASSEMBLYWOMAN TITUS:

Assembly Joint Resolution 1 proposes to amend Section 1 of Article 13 of the *Nevada Constitution* by replacing the description of persons who benefit from institutions fostered and supported by the state from one, "insane" to "persons with a significant mental illness" and, two, "blind" to "persons who are blind or visually impaired"; and, three, "deaf and dumb" to "persons who are deaf or hard of hearing, or persons who have an intellectual or developmental disability."

Roll call on Assembly Joint Resolution No. 1:

YEAS—42.

NAYS—None.

Assembly Joint Resolution No. 1 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

Assembly Joint Resolution No. 2.

Resolution read.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 119.

SUMMARY—Recognizes that ~~forest health and water quality~~ **the health of forests, rangelands and soils** are inextricably linked ~~to~~ **to the quantity and quality of water.** (BDR R-112)

ASSEMBLY JOINT RESOLUTION—Recognizing that ~~forest health and water quality~~ **the health of forests, rangelands and soils** are inextricably linked ~~to~~ **to the quantity and quality of water.**

WHEREAS, Healthy forests, **rangelands and soils** work as filters to keep sediment and other contaminants out of water, leaves ~~and~~ branches **and other residual vegetation** reduce the erosive power of rainfall, roots secure soil against erosion, and plant debris improves soil structure and helps absorb nutrients and sediment; and

WHEREAS, Healthy forests, **rangelands and soils** operate as natural sponges by collecting **snow and** rainfall, filtering out sediment and other pollutants, and slowly releasing the filtered ~~rainfall~~ **water** into rivers, lakes and streams; and

WHEREAS, Healthy forests, rangelands and soils help to recharge depleted ground water; and

WHEREAS, The ability of forests, **rangelands and soils** to aid in the **metered release and** filtration of water provides enormous benefits to both public health and the overall health of an ecosystem; and

WHEREAS, Through this filtration process, forests, **rangelands and soils** reduce both sediment and turbidity in drinking water sources, which ~~results~~ **may result** in a decrease in water treatment costs; and

WHEREAS, The loss or degradation of forests, **rangelands and soils from catastrophic wildfires** in watersheds diminishes water quality, **and** thereby ~~increasing~~ **may increase** the ~~costs~~ **cost** of water treatment; and

WHEREAS, Climate change is exacerbating drought and increasing the size and intensity of wildfires in our forests and rangelands, presenting a direct threat to water resources from deforestation, soil erosion and post-fire runoff; and

WHEREAS, Fire suppression has resulted in the proliferation of closed-canopied forests, which have reduced snow accumulation on the forest floor and accelerated the timing of snowmelt in a manner that is incongruous with the needs of the ecosystem and humans; and

WHEREAS, ~~In addition to filtering water, healthy forests help to recharge depleted groundwater;~~ **Healthy forests, rangelands, soils, water quantity and water quality are important for economic development, the economy and the management of wildlife species;** now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the 81st Session of the Nevada Legislature recognizes that ~~forest health and water quality~~ **the health of forests, rangelands and soils** are inextricably linked ~~to~~ **to water quality and quantity;** and be it further

RESOLVED, That the 81st Session of the Nevada Legislature expresses its support for the Federal Government, state agencies, **conservation districts** and local governments to work **collaboratively** with water purveyors, **land managers, private landowners, land users** and other stakeholders to identify watersheds that can be improved by better forest, **rangeland and soil** health measures ~~to~~ **and to identify or establish voluntary programs, within the limits of legislative appropriations and other available money, to address the health of forests, rangelands and soils;** and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assemblyman Watts moved the adoption of the amendment.

Remarks by Assemblyman Watts.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Assembly Joint Resolution No. 7.

Resolution read.

Remarks by Assemblywoman Bilbray-Axelrod.

ASSEMBLYWOMAN BILBRAY-AXELROD:

Assembly Joint Resolution 7 urges the Congress of the United States to pass the National Infrastructure Bank Act of 2020, also known as HR 6422 of the 116th Congress. This will offer long-term financing of infrastructure projects, business and economic growth, and the creation of new jobs.

Roll call on Assembly Joint Resolution No. 7:

YEAS—36.

NAYS—Black, Dickman, Ellison, Matthews, McArthur, Titus—6.

Assembly Joint Resolution No. 7 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

Assembly Joint Resolution No. 10.

Resolution read.

Remarks by Assemblyman Watts.

ASSEMBLYMAN WATTS:

Assembly Joint Resolution 10 proposes to amend both the Ordinance of the *Nevada Constitution* and the *Nevada Constitution* itself to remove language authorizing the use of slavery and involuntary servitude as a criminal punishment.

Roll call on Assembly Joint Resolution No. 10:

YEAS—42.

NAYS—None.

Assembly Joint Resolution No. 10 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 11.

Assemblywoman Brittney Miller moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Joint Resolution No. 12.

Assemblyman Watts moved that the resolution be referred to the Committee on Natural Resources.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 14.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 32.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 38.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 68.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 141.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 161.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 248.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 249.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 362.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Growth and Infrastructure.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 460—AN ACT making an appropriation to the Division of Museums and History of the Department of Tourism and Cultural Affairs to restore the school bus program to reimburse transportation costs for public school students to visit state museums; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 8, 30, 33, 37, 43, 51, 52, 59, 68, 69, 104, 113, 125, 130, 131, 143, 160, 177, 186, 190, 212, 230, 237, 241, 247, 250, 261, 273, 284, 319, 325, 338, 344, 351, 357, 362, 365, 393, 394, 401, 403, and 437 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 4.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 10.

AN ACT relating to insurance; revising provisions governing the authority and duties of the Nevada Insurance Guaranty Association, the Board of Directors of the Association and the Commissioner of Insurance; revising provisions governing claims against, and actions and proceedings involving, insolvent insurers and the Association; revising provisions governing the plan of operation of the Association and subrogation and recovery by the Association; revising the immunity from liability for certain persons with regard to activities relating to the Association and insolvent insurers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Commissioner of Insurance to regulate insurance in this State. (NRS 679B.120) Existing law also creates the Nevada Insurance Guaranty Association, a nonprofit unincorporated legal entity headed by a board of directors appointed by the Commissioner. (NRS 687A.040, 687A.050) The Association receives and addresses claims of insurance policyholders and beneficiaries of policies issued by an insurer who has become insolvent and is no longer able to meet its obligations. (Chapter 687A of NRS) The Association and the insurance guaranty associations established in other states together comprise the National Conference of Insurance Guaranty Funds. This bill revises existing law governing the operation of the Association and claims relating to insolvent insurers to align with model language provided by the National Conference of Insurance Guaranty Funds.

Sections 3 and 4 of this bill define the terms “person” and “self-insurer” which are specific to the law governing the operation of the Association and claims relating to insolvent insurers. **Section 7** of this bill indicates the placement of the new definitions within existing law. (NRS 687A.030)

Section 5 of this bill limits the claims which may be asserted against a person insured by a policy issued by an insolvent insurer. The provisions of **section 5** operate in conjunction with **section 8** of this bill. **Section 8** changes which claims are considered to be covered claims, which in turn affects whether those claims may become obligations to be paid by the Association. (NRS 687A.033, 687A.060)

Section 6 of this bill revises the applicability of the law governing the operation of the Association and claims relating to insolvent insurers. (NRS 687A.020) **Section 9** of this bill revises the duties and authority of the Association, and sets forth requirements for actions involving the Association. (NRS 687A.060) **Section 10** of this bill revises the requirements governing the plan of operation of the Association. (NRS 687A.070) **Section 11** of this bill

revises the duties of the Commissioner with regard to the Association. (NRS 687A.080) **Section 12** of this bill revises the provisions governing subrogation and recovery by the Association. (NRS 687A.090)

Section 13 of this bill changes which claims may be filed directly with the receiver of an insolvent insurer. (NRS 687A.095) **Section 14** of this bill revises the requirements for exhaustion of other coverage by a claimant seeking recovery from the Association. (NRS 687A.100)

Section 15 of this bill revises the duties and authority of the Board of Directors of the Association. (NRS 687A.110) **Section 16** of this bill revises the immunity from liability for the Board of Directors, the Association itself and the Commissioner, and for certain persons working for the Association or the Commissioner, with regard to activities relating to the Association and insolvent insurers. (NRS 687A.150)

Section 17 of this bill revises provisions governing court proceedings involving an insolvent insurer, and authorizes the Association and its representatives to access the records of an insolvent insurer. (NRS 687A.160)

Sections 1 and 18 of this bill add and delete internal references in existing law to account for revisions made by **sections 9 and 15**. (NRS 239.010, 686B.230)

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

Section 1. NRS 686B.230 is hereby amended to read as follows:

686B.230 1. The Nevada Essential Insurance Association has, for purposes of this section and to the extent approved by the Commissioner, the general powers and authority granted under the laws of this state to carriers licensed to transact the kinds of insurance defined in NRS 681A.020 to 681A.080, inclusive.

2. The Association may take any necessary action to make available necessary insurance, including but not limited to, the following:

(a) Assess participating insurers amounts necessary to pay the obligations of the Association, administration expenses, the cost of examinations ~~conducted pursuant to NRS 687A.110~~ and other expenses authorized by this chapter. The assessment of each member insurer for the kind or kinds of insurance designated in the plan must be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bear to the net direct written premiums of all member insurers for the preceding calendar year. A member insurer may not be assessed in any year an amount greater than 5 percent of his or her net direct written premiums for the preceding calendar year. Each member insurer must be allowed a premium tax credit at the rate of 20 percent per year for 5 successive years beginning on the first day of the calendar year after the calendar year in which the insurer pays the assessment pursuant to this subsection.

(b) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this section.

(c) Sue or be sued, including taking any legal action necessary to recover any assessments for, on behalf of or against participating carriers.

(d) Investigate claims brought against the fund and adjust, compromise, settle and pay covered claims to the extent of the Association's obligation and deny all

other claims. Process claims through its employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a service facility is subject to the approval of the Commissioner, but such a designation may be declined by a member insurer.

(e) Classify risks as may be applicable and equitable.

(f) Establish appropriate rates, rate classifications and rating adjustments and file those rates with the Commissioner in accordance with this chapter.

(g) Administer any type of reinsurance program for or on behalf of the Association or any participating carriers.

(h) Pool risks among participating carriers.

(i) Issue and market, through agents, policies of insurance providing the coverage required by this section in its own name or on behalf of participating carriers.

(j) Administer separate pools, separate accounts or other plans as may be deemed appropriate for separate carriers or groups of carriers.

(k) Invest, reinvest and administer all funds and moneys held by the Association.

(l) Borrow funds needed by the Association to carry out the purposes of this section.

(m) Develop, effectuate and promulgate any loss-prevention programs aimed at the best interests of the Association and the insuring public.

(n) Operate and administer any combination of plans, pools, reinsurance arrangements or other mechanisms as deemed appropriate to best accomplish the fair and equitable operation of the Association for the purposes of making available essential insurance coverage.

3. In providing for the recoupment of a deficit of the Association, an option must be offered to an insured each policy year to pay a capital stabilization charge which must not exceed 100 percent of the premium charged to the insured in that year. The Board of Directors shall determine the amount of the charge from appropriate factors of loss experience and risk associated with the Association and the insured. An insured who pays the stabilization charge must not be required to pay any assessment to recoup a deficit of the Association incurred in any policy year for which the charge is paid. The Association's plan of operation must provide for the return to the insured of so much of the insured's payment as remains after all actual or potential liabilities under the policy have been discharged.

Sec. 2. Chapter 687A of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. *"Person" means any individual or legal entity, including, without limitation, a governmental entity.*

Sec. 4. *“Self-insurer” means a person that covers its liability through a qualified individual or group self-insurance program or any other formal program created for the specific purpose of covering liabilities typically covered by insurance.*

Sec. 5. *With regard to a claim for an amount described in paragraph (d) of subsection 2 of NRS 687A.033, no such claim for any amount due any reinsurer, insurer, insurance pool, underwriting association, health maintenance organization, hospital plan corporation, professional health service corporation or self-insurer may be asserted against a person insured under a policy issued by an insolvent insurer other than to the extent such claim exceeds the Association obligation limitations set forth in NRS 687A.060.*

Sec. 6. NRS 687A.020 is hereby amended to read as follows:

687A.020 Except as otherwise provided in subsection 5 of NRS 695E.200, this chapter applies to all direct insurance, except:

1. Life, annuity, health or disability insurance;
2. Mortgage guaranty, financial guaranty or other forms of insurance offering protection against investment risks;
3. Fidelity or surety bonds or any other bonding obligations;
4. Credit insurance as defined in NRS 690A.015 ~~††~~, *vendors’ single interest insurance, collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;*
5. Insurance of warranties or service contracts ~~††~~, *including, without limitation, insurance that provides:*
 - (a) *For the repair, replacement or service of goods or property;*
 - (b) *Indemnification for the repair, replacement or service of goods or property;*
 - (c) *Indemnification for the operational or structural failure of goods or property due to a defect in materials, workmanship or normal wear and tear;**or*
 - (d) *Reimbursement for the liability incurred by the issuer of agreements or service contracts which provide any benefits described in this subsection;*
6. Title insurance;
7. Ocean marine insurance;
8. Any transaction or combination of transactions between a person, including affiliates of the person, and an insurer, including affiliates of the insurer, which involves the transfer of investment or credit risk unaccompanied by the transfer of insurance risk; or
9. Any insurance provided by or guaranteed by a governmental entity.

Sec. 7. NRS 687A.030 is hereby amended to read as follows:

687A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 687A.031 to 687A.039, inclusive, **and sections 3 and 4 of this act** have the meanings ascribed to them in those sections.

Sec. 8. NRS 687A.033 is hereby amended to read as follows:

687A.033 1. “Covered claim” means an unpaid claim or judgment, including a claim for unearned premiums, which arises out of and is within the coverage of an insurance policy to which this chapter applies if the insurer becomes an insolvent insurer, the policy was issued by the insurer or assumed by the insurer in an assumed claims transaction, and one of the following conditions exists:

(a) The claimant or insured, if a natural person, is a resident of this State at the time of the insured event.

(b) The claimant or insured, if other than a natural person, maintains its principal place of business in this State at the time of the insured event.

(c) The property from which the first party property damage claim arises is permanently located in this State.

~~[(d) The claim is not a covered claim pursuant to the laws of any other state and the premium tax imposed on the insurance policy is payable in this State pursuant to NRS 680B.027.]~~

2. The term does not include:

~~(a) An amount that is directly or indirectly due a reinsurer, insurer, insurance pool or underwriting association, as recovered by subrogation, indemnity or contribution, or otherwise.~~

~~—(b) That part of a loss which would not be payable because of a provision for a deductible or a self-insured retention specified in the policy.~~

~~—(e) awarded as punitive or exemplary damages.~~

(b) A fine or penalty paid to a governmental authority.

(c) An amount sought as a return of premium under any retrospective rating plan.

(d) An amount due any reinsurer, insurer, insurance pool, underwriting association, health maintenance organization, hospital plan corporation, professional health service corporation or self-insurer as subrogation recoveries, reinsurance recoveries, contribution, indemnification or otherwise.

(e) Except as otherwise provided in this paragraph, any claim filed with the Association:

(1) More than ~~18~~ 25 months after the date of the order of liquidation; or

(2) After the final date set by the court for the filing of claims against the liquidator or receiver of the insolvent insurer,

↪ whichever is earlier. The provisions of this paragraph do not apply to a claim for workers’ compensation that is reopened pursuant to the provisions of NRS 616C.390 or 616C.392.

~~[(d) (f) A claim filed with the Association for a loss that is incurred but is not reported to the Association before the expiration of the period specified in subparagraph (1) or (2) of paragraph (e).]~~

~~[(e) An obligation to make a supplementary payment for adjustment or attorney’s fees and expenses, court costs or interest and bond premiums~~

incurred by the insolvent insurer before the appointment of a liquidator, unless the expenses would also be a valid claim against the insured.

~~(f) A first party or third party claim brought by or against an insured, if the aggregate net worth of the insured and any affiliate of the insured, as determined on a consolidated basis, is more than \$25,000,000 on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer.~~

(g) A first-party claim by an insured whose net worth exceeds \$10,000,000 on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer.

(h) A third-party claim relating to a policy of an insured whose net worth exceeds \$25,000,000 on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer.

(i) A claim that would otherwise be a covered claim, but is an obligation to or on behalf of a person who has a net worth greater than that allowed by the insurance guaranty association law of the state of residence of the claimant at the time specified by such law, and which association has denied coverage to that claimant on that basis.

(j) A first-party claim by an insured which is an affiliate of the insolvent insurer.

(k) A fee or other amount relating to goods or services sought by or on behalf of any attorney or other provider of goods or services retained by the insolvent insurer or an insured before the date the insurer was determined to be insolvent.

(l) A fee or other amount sought by or on behalf of any attorney or other provider of goods or services retained by any insured or claimant in connection with the assertion or prosecution of any claim, covered or otherwise, against the Association.

(m) A claim for interest.

3. For the purposes of paragraphs (g) and (h) of subsection 2, an insured's net worth on the applicable date shall be deemed to include the aggregate net worth of the insured and all of the insured's subsidiaries and affiliates as calculated on a consolidated basis.

4. The provisions of ~~this paragraph~~ paragraphs (g) and (h) of subsection 2 do not apply to a claim for workers' compensation.

5. The provisions of paragraph (h) of subsection 2 do not apply to third-party claims against the insured where the insured has applied for or consented to the appointment of a receiver, trustee or liquidator for all or a substantial part of the insured's assets, filed a voluntary petition in bankruptcy, filed a petition or an answer seeking a reorganization or arrangement with creditors or to take advantage of any insolvency law, or if an order, judgment or decree is entered by a court of competent jurisdiction, on the application of a creditor, adjudicating the insured bankrupt or insolvent or approving a petition seeking reorganization of the insured or of all or substantial part of its assets.

6. As used in this ~~paragraph~~ **section**, “affiliate” means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purpose of this definition, the terms “owns,” “is owned” and “ownership” mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more.

Sec. 9. NRS 687A.060 is hereby amended to read as follows:

687A.060 1. The Association:

(a) ~~It~~ **Except as otherwise provided in paragraph (b), is** obligated to the extent of the covered claims existing before the determination of insolvency and arising within 30 days after the determination of insolvency, or before the expiration date of the policy if that date is less than 30 days after the determination, or before the insured replaces the policy or on request cancels the policy if the insured does so within 30 days after the determination. The obligation of the Association to pay a covered claim is limited to the payment of:

(1) The entire amount of the claim, if the claim is for workers’ compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(2) Not more than ~~the lesser of \$300,000 or the policy limit~~ **\$10,000** for each policy if the claim is for the return of unearned premiums; or

(3) The limit specified in a policy or \$300,000, whichever is less, for each occurrence for any covered claim other than a covered claim specified in subparagraph (1) or (2).

(b) **Is not obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises. Any obligation of the Association to defend an insured on a covered claim ceases upon the Association’s:**

(1) Payment, by settlement releasing the insured or on a judgment, of an amount equal to the lesser of the Association’s covered claim obligation limit or the applicable policy limit; or

(2) Tender of the amount described in subparagraph (1).

↪ If the Association determines that there may be more than one claimant having a covered claim or allowed claim against the Association, or against any associations similar to the Association in other states, under the policy or policies of any one insolvent insurer, the Association may establish a plan to allocate amounts payable by the Association in such a manner as the Association in its discretion deems equitable.

(c) Shall be deemed the insurer to the extent of its obligations on the covered claims and to that extent has any rights, duties and obligations of the insolvent insurer as if the insurer had not become insolvent. The rights include, without limitation, the right to seek and obtain any recoverable salvage and to subrogate a covered claim, to the extent that the Association has paid its obligation under the claim. **The Association shall not be deemed to be the insolvent insurer for any purpose relating to the issue of whether the**

Association is amenable to the personal jurisdiction of the courts of any state.

~~{(c)}~~ (d) Shall assess member insurers amounts necessary to pay the obligations of the Association pursuant to paragraph (a) after an insolvency, the expenses of handling covered claims subsequent to an insolvency ~~the cost of examinations pursuant to NRS 687A.110~~ and other expenses authorized by this chapter. The assessment of each member insurer must be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bear to the net direct written premiums of all member insurers for the same calendar year. Each member insurer must be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any year an amount greater than 2 percent of the net direct written premiums of that member insurer for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the Association, does not provide in any 1 year an amount sufficient to make all necessary payments, the money available may be prorated and the unpaid portion must be paid as soon as money becomes available. The Association may pay claims in any order, including the order in which the claims are received or in groups or categories. The Association may exempt or defer, in whole or in part, the assessment of any member insurer if the assessment would cause the financial statement of the member insurer to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. During the period of deferment, no dividends may be paid to shareholders or policyholders. Deferred assessments must be paid when payment will not reduce capital or surplus below required minimums. Payments must be refunded to those companies receiving larger assessments because of deferment, or, in the discretion of the company, credited against future assessments. Each member insurer must be allowed a premium tax credit for any amounts paid pursuant to the provisions of this chapter ~~;~~

~~— (1) For assessments made before January 1, 1993, at the rate of 10 percent per year for 10 successive years beginning March 1, 1996; or~~

~~— (2) For assessments made on or after January 1, 1993, at the rate of 20 percent per year for 5 successive years beginning with the calendar year following the calendar year in which the assessments are paid.~~

~~{(d)}~~ (e) Shall investigate claims brought against the fund and adjust, compromise, settle and pay covered claims to the extent of the obligation of the Association and deny any other claims. ***The Association has the right to appoint and to direct legal counsel retained under liability insurance policies for the defense of covered claims.***

~~{(e)}~~ (f) ***Is not bound by a ~~settlement~~ release, compromise, waiver, unfunded settlement or judgment executed or entered within 12 months before an order of liquidation and has the right to assert all defenses available to the Association, including, without limitation, defenses***

applicable to determining and enforcing its statutory rights and obligations to an applicable claim. The Association is bound by a ~~settlement~~ release, compromise, waiver, settlement or judgment executed or entered into more than 1 year before an order of liquidation if an applicable claim is a covered claim and such settlement or judgment was not a result of fraud, collusion, default or failure to defend. With regard to a covered claim arising from a judgment under a decision, verdict or finding based on the default of the insolvent insurer or the insurer's failure to defend, the Association, either on its own behalf or on behalf of an insured, may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and must be permitted to defend such claim on the merits.

(g) Shall notify such persons as the Commissioner directs pursuant to paragraph (a) of subsection 2 of NRS 687A.080.

~~((h))~~ (h) Shall act on claims through its employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the Commissioner, but the designation may be declined by a member insurer.

~~((i))~~ (i) Shall reimburse each servicing facility for obligations of the Association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the Association and pay the other expenses of the Association authorized by this chapter.

2. The Association may:

(a) Appear in, defend and appeal any action on a claim brought against the Association.

(b) Employ or retain persons necessary to handle claims and perform other duties of the Association.

(c) Borrow money necessary to carry out the purposes of this chapter in accordance with the plan of operation.

(d) Sue or be sued. ***Such power to sue includes, without limitation, the power and right to intervene as a party before any court in this State that has jurisdiction over an insolvent insurer.***

(e) Negotiate and become a party to contracts necessary to carry out the purposes of this chapter.

(f) ***Establish procedures for requesting financial information from insureds and claimants on a confidential basis for the purposes of applying sections concerning the net worth of first-party and third-party claimants, subject to such information being shared with any other association similar to the Association and the liquidator for the insolvent insurer on the same confidential basis. If the insured or claimant refuses to provide the requested financial information and an auditor's certification of the same where requested and available, the Association may deem the net worth of the insured or claimant to be in excess of \$10,000,000 or \$25,000,000, as applicable, at the relevant time.***

(g) Bring an action against any third-party administrator, agent, attorney or other representative of the insolvent insurer to obtain custody and control of all files, records and electronic data related to an insolvent insurer that are appropriate or necessary for the Association, or a similar association in other states, to carry out its duties under this chapter. In such an action, the Association has the absolute right through emergency equitable relief to obtain custody and control of all such files, records and electronic data in the custody or control of such third-party administrator, agent, attorney or other representative of the insolvent insurer, regardless of where such files, records and electronic data may be physically located. In bringing such an action, the Association is not subject to any defense, possessory lien or other lien or other legal or equitable ground whatsoever for refusal to surrender such files, records and electronic data that might be asserted against the liquidator of the insolvent insurer. To the extent that litigation is required for the Association to obtain custody of the files, records and electronic data requested and such litigation results in the relinquishment of files, records and electronic data to the Association after refusal to provide the same in response to a written demand, the court shall award the Association its costs, expenses and reasonable attorney's fees incurred in bringing the action. The provisions of this paragraph have no effect on the rights and remedies the custodian of such files, records and electronic data may have against the insolvent insurer, so long as such rights and remedies do not conflict with the rights of the Association to custody and control of the files, records and electronic data.

(h) Perform other acts necessary or proper to effectuate the purposes of this chapter.

~~+(g)~~ *(i) Perform any administrative acts requested by the Commissioner in furtherance of the purposes of this title and, if the cost of the action is not paid for by the Association or its member insurers, the Nevada Industrial Insurance Act.*

~~+(h)~~ *(j) If, at the end of any calendar year, the Board of Directors of the Association finds that the assets of the Association exceed its liabilities as estimated by the Board of Directors for the coming year, refund to the member insurers in proportion to the contribution of each that amount by which the assets of the Association exceed the liabilities.*

~~+(i)~~ *(k) Subject to approval by the Commissioner, provide claims handling services to any run-off insurer if the Association's expenses related thereto are fully reimbursed. There is no liability on the part of, and no cause of action of any nature may arise against, any member insurer, the Association or its agents or employees, the Board of Directors of the Association, or any person serving as a representative of any director for any action taken or any failure to act by them in the performance of their activities under this paragraph. As used in this paragraph, "run-off insurer" means a property and casualty insurer that has, as determined pursuant to NRS 681B.550 and regulations adopted pursuant thereto:*

(1) Total adjusted capital under risk-based capital requirements in an amount less than the authorized control level of risk-based capital as of the end of the preceding year and that has indicated that it will cease writing new insurance policies, either as part of its corrective action plan or pursuant to being placed under regulatory control; or

(2) Total adjusted capital under risk-based capital requirements in an amount less than the mandatory control level of risk-based capital as of the end of the preceding year and that has not been placed into liquidation.

(l) Assess each member insurer equally not more than ~~+\$100~~ \$1,000 per year for administrative expenses not related to the insolvency of any insurer.

3. With regard to an action involving the Association:

(a) Except for an action by a member insurer aggrieved by a final action or decision of the Association pursuant to paragraph (d) of subsection 1, an action relating to or arising out of this chapter against the Association must be brought in a district court of the State of Nevada. The courts of the State of Nevada have exclusive jurisdiction over all actions relating to or arising out of this chapter against the Association.

(b) Exclusive venue in an action by or against the Association is in the courts of the State of Nevada. The Association may, at the option of the Association, waive such venue as to a specific action.

(c) In any action contesting the applicability of paragraph (g) or (h) of subsection 2 of NRS 687A.033 in which the insured or claimant has declined to provide financial information under the procedure provided in the plan of operation submitted pursuant to NRS 687A.070, the insured or claimant bears the burden of proof concerning its net worth at the relevant time. If the insured or claimant fails to prove that its net worth at the relevant time was less than the applicable amount, the court shall award the Association its full costs, expenses and reasonable attorney's fees in contesting the claim.

Sec. 10. NRS 687A.070 is hereby amended to read as follows:

687A.070 1. The Association shall submit a plan of operation to the Commissioner, together with any amendments necessary or suitable to assure the fair, reasonable and equitable administration of the Association. The plan of operation and any amendments become effective upon approval in writing by the Commissioner. If the Association ~~fails to submit a suitable plan of operation within 90 days following May 5, 1971, or if at any time thereafter the Association~~ fails to submit suitable amendments to the plan ~~it~~ **as needed**, the Commissioner shall adopt reasonable regulations necessary or advisable to effectuate the provisions of this chapter. The regulations continue in force until modified by the Commissioner or superseded by a plan **, or by amendments to a plan, which are** submitted by the Association and approved by the Commissioner.

2. ~~At~~ **The Association and all** member insurers shall comply with the plan of operation.

3. The plan of operation must:

(a) Establish the procedures for performance of all the duties and powers of the Association under NRS 687A.060.

(b) Establish procedures for managing assets of the Association.

(c) ~~Establish~~ **Mandate that the Association establish procedures to designate** the amount and method of reimbursing members of the Board of Directors under NRS 687A.050.

(d) Establish procedures by which claims may be filed with the Association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the Association or its agent and a list of those claims must be periodically submitted to the Association or similar organization in another state by the receiver or liquidator.

(e) Establish regular places and times for meetings of the Board of Directors.

(f) ~~Establish~~ **Mandate that the Association establish** procedures for keeping records of all financial transactions of the Association, its agent and the Board of Directors.

(g) Provide that any member insurer aggrieved by any final action or decision of the Association may appeal to the Commissioner within 30 days after the action or decision.

(h) Establish procedures for submission to the Commissioner of selections for the Board of Directors.

(i) Contain additional provisions necessary or proper for the execution of the duties and powers of the Association.

4. The plan of operation may provide that any or all duties and powers of the Association, except those under paragraph ~~[(e)]~~ **(d)** of subsection 1 and paragraph (c) of subsection 2 of NRS 687A.060, are delegated to a person who performs or will perform functions similar to those of this Association in two or more states. This person must be reimbursed as a servicing facility and must be paid for performance of any other functions of the Association. A delegation under this subsection takes effect only with the approval of both the Board of Directors and the Commissioner, and may be made only to a person who extends protection not substantially less favorable and effective than that provided by this chapter.

Sec. 11. NRS 687A.080 is hereby amended to read as follows:

687A.080 1. The Commissioner shall:

(a) Notify the Association of the existence of an insolvent insurer not later than 3 days after the Commissioner receives notice of the determination of insolvency by a court or makes a determination of insolvency pursuant to NRS 687A.107, whichever is earlier.

(b) **Provide the Association with a copy of any complaint seeking an order of liquidation with a finding of insolvency against a member insurer when such a complaint is filed or received by the Commissioner.**

(c) Upon request of the Board of Directors of the Association, provide the Association with a statement of the net direct written premiums of each member insurer.

2. The Commissioner may:

(a) Require that the Association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this chapter. Such notification must be by mail at their last known address, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation is sufficient.

(b) Suspend or revoke, after notice and opportunity for hearing, the certificate of authority to transact insurance in this State of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the Commissioner may levy a fine on any member insurer which fails to pay an assessment when due. The fine must not exceed 5 percent of the unpaid assessment per month, except that no fine may be less than \$100 per month.

(c) Revoke the designation of any servicing facility if the Commissioner finds claims are being acted upon unsatisfactorily.

(d) Request the Association to perform any acts specified in paragraph ~~(g)~~ (i) of subsection 2 of NRS 687A.060.

Sec. 12. NRS 687A.090 is hereby amended to read as follows:

687A.090 1. Any person recovering under this chapter shall be deemed to have assigned his or her rights under the policy to the Association to the extent of the person's recovery from the Association. Every insured or claimant seeking the protection of this chapter shall cooperate with the Association to the same extent as the person would have been required to cooperate with the insolvent insurer. Except ~~as~~:

(a) As otherwise provided in subsection 2 ~~1~~;

(b) *For a cause of action which the insolvent insurer would have had if such sums had been paid by the insolvent insurer,*

↳ the Association does not have a cause of action against the insured of the insolvent insurer for any sums it has paid out.

2. The Association may recover the amount of money paid ~~to~~:

(a) To or on behalf of an insured of an insolvent insurer:

~~(a)~~ (1) If the aggregate net worth of the insured and any affiliate of the insured, as determined on a consolidated basis, is more than ~~25,000,000~~ \$10,000,000 on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer; or

~~(b)~~ (2) If the Association paid the money in error.

(b) *To any person who is an affiliate of the insolvent insurer.*

3. *The Association and any association similar to the Association in another state must be recognized as claimants in the liquidation of an insolvent insurer for any amounts paid by them on obligations relating to covered claims as determined under this chapter or similar laws in other states and must receive dividends and any other distributions at the priority*

set forth in the final order of liquidation. The receiver, liquidator or statutory successor of an insolvent insurer is bound by *determinations of eligibility of covered claims under this chapter and by* any settlements of covered claims by the Association or a similar organization in another state. The court having jurisdiction shall grant those claims priority equal to that to which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the Association or similar organization in handling claims must be accorded the same priority as the liquidator's expenses.

4. The Association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the Association and estimates of anticipated claims on the Association, which statements shall preserve the rights of the Association against the assets of the insolvent insurer.

5. As used in this section, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purpose of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more.

Sec. 13. NRS 687A.095 is hereby amended to read as follows:

687A.095 A claim asserted against a person insured by an insurer which has become insolvent which, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool, ~~or~~ underwriting association, **health maintenance organization, hospital plan corporation, professional health service corporation or self-insurer**, would be a covered claim, may be filed directly with the receiver of the insolvent insurer. These claims may not be asserted in any action against the insured of the insolvent insurer.

Sec. 14. NRS 687A.100 is hereby amended to read as follows:

687A.100 1. ~~Any person having a claim against his or her insurer, including, but not limited to, a claim for damages caused by an uninsured motorist, under any provision in the person's insurance policy, which is also a covered claim shall first exhaust his or her right under the policy. Any amount payable on a covered claim under this chapter must be reduced by the amount of the applicable limit under the claimant's insurance policy, regardless of whether the claimant recovers the full amount payable under that policy or exhausts only a lesser amount.]~~ **under an insurance policy, whether or not the insurance policy is a policy issued by a member insurer, and the claim under such other policy arises from the same facts, injury or loss that gave rise to the covered claim against the Association, is required first to exhaust all coverage provided by any such policy, including, without limitation, the right to a defense under the other policy. Any amount payable on a covered claim under this chapter must be reduced by the full applicable limits stated in such other insurance policy and the Association must receive a full credit for such stated limits, or, where there are no applicable stated limits, the claim must be reduced by the total recovery. Notwithstanding the foregoing,**

a person is not required to exhaust any right under the policy of an insolvent insurer.

2. For the purposes of subsection 1, a claim under an insurance policy:

(a) Which provides liability coverage to a person who may be jointly and severally liable with or a joint tortfeasor with the person covered under the policy of the insolvent insurer that gives rise to the covered claim shall be deemed to be a claim arising from the same facts, injury or loss that gave rise to the covered claim against the Association.

(b) Includes, without limitation:

(1) A claim against a health maintenance organization, a hospital plan corporation or a professional health service corporation; and

(2) Any amount payable by or on behalf of a self-insurer.

3. To the extent that the Association's obligation is reduced by the application of subsections 1 and 2, the liability of the person insured by the insolvent insurer's policy for the claim must be reduced in the same amount.

4. Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured. However, if the claim is a first party claim for damage to property with a permanent location, recovery must first be sought from the association of the location of the property. If the claim is a workers' compensation claim, recovery must first be sought from the association of the residence of the claimant. Any recovery under this chapter must be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

Sec. 15. NRS 687A.110 is hereby amended to read as follows:

687A.110 To aid in the detection and prevention of insurer insolvencies:

~~1. {The Board of Directors shall, upon majority vote, notify the Commissioner of any information indicating any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public.~~

~~2. The Board of Directors may, upon majority vote, request that the Commissioner order an examination of any member insurer which the Board in good faith believes may be in a financial condition hazardous to the policyholders or the public. Within 30 days of the receipt of such request, the Commissioner shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners' examination or may be conducted by such persons as the Commissioner designates. The cost of such examination shall be paid by the Association and the examination report shall be treated as are other examination reports. Except as permitted by paragraph (c) of subsection 1 of NRS 687A.115, the Commissioner shall not release an examination report to the Board of Directors prior to its release to the public. The Commissioner shall notify the Board of Directors when the examination is completed. The request for an examination shall be kept on file by the Commissioner, but it shall not be open to public inspection prior to the release of the examination report to the public.~~

~~—3—~~ The Board of Directors may, upon majority vote, make ~~reports and~~ recommendations to the Commissioner upon any matter ~~germane to the~~ **generally related to improving or enhancing regulation for** solvency . ~~liquidation, rehabilitation or conservation of any member insurer. Such reports and recommendations are not public documents.~~

~~—4—~~ 2. The Board of Directors may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of insurer insolvencies.

~~—5—~~ 3. The Board of Directors ~~shall~~ **may**, at the conclusion of any ~~insurer~~ insolvency **of a domestic insurer** in which the Association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the Association, and submit such report to the Commissioner.

Sec. 16. NRS 687A.150 is hereby amended to read as follows:

687A.150 There is no liability, and no cause of action of any nature shall arise against any member insurer, the Association, its agents or employees, the Board of Directors, the Commissioner or the representatives of the Commissioner, for any reasonable action taken, **or any failure to act**, by them in the performance of their duties and powers under this chapter.

Sec. 17. NRS 687A.160 is hereby amended to read as follows:

687A.160 1. ~~Upon the application of the Association or insured and upon cause shown.~~ **Subject to waiver by the Association in specific cases involving covered claims**, all proceedings in which the insolvent insurer is a party, or is obligated to defend a party, in any court in this State must be stayed ~~for 3 months and any~~ **until the last day fixed by the court for the filing of claims and for such additional** time thereafter ~~ordered~~ **as may be determined** by the court ~~after~~ **from** the date the insolvency is determined **or an ancillary proceeding is instituted in this State, whichever is later**, to permit proper defense by the Association of all pending causes of action. ~~Cause may be established by affidavit showing the unavailability of the insolvent insurer's files or records which are reasonably necessary for the Association to confirm coverage and adjust the claim.~~

2. ~~If an insolvent insurer has failed to defend an insured in any action, the Association may apply on its own behalf or on behalf of the insured to have any judgment or order in the action set aside and the Association may defend against the action on its merits.~~ **The liquidator, receiver or statutory successor of an insolvent insurer governed by this chapter shall permit access by the Association or its authorized representative to the insolvent insurer's records which are necessary for the Association in carrying out its functions under this chapter with regard to covered claims. In addition, the liquidator, receiver or statutory successor shall provide the Association or its representative with copies of such records upon request by the Association and at the expense of the Association.**

Sec. 18. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207, 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120,

463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325, 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, ~~687A.110~~ **687A.060**, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

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

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the

governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

- (1) Was not created or prepared in an electronic format; and
- (2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

- (1) Give access to proprietary software; or
- (2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

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

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

Assemblywoman Jauregui moved the adoption of the amendment.

Remarks by Assemblywoman Jauregui.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 6.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 118.

AN ACT relating to water; revising provisions governing an application for a temporary change relating to water already appropriated; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

With certain exceptions, existing law requires a person who wishes to change the place of diversion, manner of use or place of use of water already appropriated to apply to the State Engineer for a permit to do so. (NRS 533.325) Existing law requires the State Engineer to hold a hearing on an application for a temporary change to the place of diversion, manner of use or place of use of water already appropriated if the State Engineer determines that such a change may not be in the public interest or may impair the water rights

of others. (NRS 533.345) This bill ~~makes the holding of a hearing on such an application discretionary.~~ **clarifies that a person may file a written protest against the granting of an application for a temporary change and provides that the State Engineer may hold a hearing in accordance with the procedures set forth in existing law.**

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

Section 1. NRS 533.345 is hereby amended to read as follows:

533.345 1. Every application for a permit to change the place of diversion, manner of use or place of use of water already appropriated must contain such information as may be necessary to a full understanding of the proposed change, as may be required by the State Engineer.

2. If an applicant is seeking a temporary change of place of diversion, manner of use or place of use of water already appropriated, the State Engineer shall approve the application if:

- (a) The application is accompanied by the prescribed fees;
- (b) The temporary change is in the public interest; and
- (c) The temporary change does not impair the water rights held by other persons.

3. If the State Engineer determines that the temporary change may not be in the public interest, or may impair the water rights held by other persons, the State Engineer shall give notice of the application as provided in NRS 533.360 ~~and hold a hearing and render a decision as provided in this chapter.~~ **Any person interested may file a written protest to the application and the State Engineer may hold a hearing for the application before rendering a decision in accordance with the provisions of NRS 533.365.**

4. A temporary change may be granted for any period not to exceed 1 year.

Sec. 2. This act becomes effective on July 1, 2021.

Assemblyman Watts moved the adoption of the amendment.

Remarks by Assemblyman Watts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 18.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 11.

AN ACT relating to insurance; ~~revising provisions governing policies of insurance covering the use of a passenger car;~~ revising provisions governing the renewal of a policy of insurance; revising provisions governing certain policies of motor vehicle liability insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires insurers that transact motor vehicle insurance in this State to offer each purchaser of a policy of liability insurance covering the use of a passenger car the option to purchase uninsured and underinsured vehicle coverage in an amount that is equal to the limits of coverage for bodily injury provided by the policy of motor vehicle liability insurance sold to the purchaser. (NRS 687B.145) Section 1 of this bill authorizes, but does not require, such insurers to also offer uninsured and underinsured vehicle coverage in amounts that are greater or less than the amount of the coverage for bodily injury provided by the policy of motor vehicle liability insurance sold to the purchaser.]~~

Existing law provides that, with certain exceptions, no policy of motor vehicle liability insurance may be delivered or issued for delivery in this State unless it provides uninsured vehicle coverage to the persons insured under the policy in an amount that is not less than the minimum limits of coverage for bodily injury required under Nevada's Motor Vehicle Insurance and Financial Responsibility Act, which are currently \$25,000 for bodily injury to or death of one person in any one crash and \$50,000 for bodily injury to or death of two or more persons in any one crash, and not greater than the coverage for bodily injury that is provided by the policy. (NRS 485.185, 690B.020) **Section 3** of this bill eliminates the limitation on the maximum amount of uninsured vehicle coverage that may be provided by a policy of motor vehicle liability insurance.

Existing law prohibits an insurer from renewing a policy on different terms unless the insurer notifies the insured in writing of the different terms at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, existing law requires the insurer to renew the policy at the expiring terms. (NRS 687B.350) **Section 2** of this bill provides that the notification provisions do not apply to a renewal of a policy in which the change in policy or coverage provisions consists only of: (1) a decrease in the amount of the total premium charged to the insured for the renewal of the policy; (2) a change in the effective date and expiration date of the policy if the duration of the renewed policy remains unchanged; or (3) a change in one or more conditions of the policy that are intended to make an aspect of the coverage provided by the policy more favorable to the insured and is not accompanied by a change in one or more conditions of the policy that are intended to make an aspect of the coverage provided by the policy less favorable to the insured.

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

Section 1. ~~[NRS 687B.145 is hereby amended to read as follows:
687B.145 1. Any policy of insurance or endorsement providing
coverage under the provisions of NRS 690B.020 or other policy of casualty
insurance may provide that if the insured has coverage available to the insured
under more than one policy or provision of coverage, any recovery or benefits~~

~~may equal but not exceed the higher of the applicable limits of the respective coverages, and the recovery or benefits must be prorated between the applicable coverages in the proportion that their respective limits bear to the aggregate of their limits. Any provision which limits benefits pursuant to this section must be in clear language and be prominently displayed in the policy, binder or endorsement. Any limiting provision is void if the named insured has purchased separate coverage on the same risk and has paid a premium calculated for full reimbursement under that coverage.~~

~~2. Except as otherwise provided in subsection 5, insurance companies transacting motor vehicle insurance in this State [must]:~~

~~(a) Must offer, on a form approved by the Commissioner, uninsured and underinsured vehicle coverage in an amount equal to the limits of coverage for bodily injury sold to an insured under a policy of insurance covering the use of a passenger car. The insurer is not required to reoffer the coverage to the insured in any replacement, reinstatement, substitute or amended policy, but the insured may purchase the coverage by requesting it in writing from the insurer. Each renewal must include a copy of the form offering such coverage.~~

~~(b) May offer uninsured and underinsured vehicle coverage in an amount that is greater or less than the limits of coverage for bodily injury sold to an insured under a policy of insurance covering the use of a passenger car.~~

~~Uninsured and underinsured vehicle coverage must include a provision which enables the insured to recover up to the limits of the insured's own coverage any amount of damages for bodily injury from the insured's insurer which the insured is legally entitled to recover from the owner or operator of the other vehicle to the extent that those damages exceed the limits of the coverage for bodily injury carried by that owner or operator. If an insured suffers actual damages subject to the limitation of liability provided pursuant to NRS 41.035, underinsured vehicle coverage must include a provision which enables the insured to recover up to the limits of the insured's own coverage any amount of damages for bodily injury from the insured's insurer for the actual damages suffered by the insured that exceed that limitation of liability.~~

~~3. An insurance company transacting motor vehicle insurance in this State must offer an insured under a policy covering the use of a passenger car, the option of purchasing coverage in an amount of at least \$1,000 for the payment of reasonable and necessary medical expenses resulting from a crash. The offer must be made on a form approved by the Commissioner. The insurer is not required to reoffer the coverage to the insured in any replacement, reinstatement, substitute or amended policy, but the insured may purchase the coverage by requesting it in writing from the insurer. Each renewal must include a copy of the form offering such coverage.~~

~~4. An insurer who makes a payment to an injured person on account of underinsured vehicle coverage as described in subsection 2 is not entitled to subrogation against the underinsured motorist who is liable for damages to the injured payee. This subsection does not affect the right or remedy of an insurer under subsection 5 of NRS 690B.020 with respect to uninsured vehicle~~

coverage. As used in this subsection, “damages” means the amount for which the underinsured motorist is alleged to be liable to the claimant in excess of the limits of bodily injury coverage set by the underinsured motorist’s policy of casualty insurance.

~~5. An insurer need not offer, provide or make available uninsured or underinsured vehicle coverage in connection with a general commercial liability policy, an excess policy, an umbrella policy or other policy that does not provide primary motor vehicle insurance for liabilities arising out of the ownership, maintenance, operation or use of a specifically insured motor vehicle.~~

~~6. As used in this section:~~

~~(a) “Excess policy” means a policy that protects a person against loss in excess of a stated amount or in excess of coverage provided pursuant to another insurance contract.~~

~~(b) “Passenger car” has the meaning ascribed to it in NRS 482.087.~~

~~(c) “Umbrella policy” means a policy that protects a person against losses in excess of the underlying amount required to be covered by other policies.]~~

(Deleted by amendment.)

Sec. 2. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in ~~[subsection 2,]~~ **subsections 2 and 3**, an insurer shall not renew a policy ~~[on different terms,]~~ **if the renewal includes a change in policy or coverage provisions**, including ~~[different]~~ **a change in rates ~~[,]~~ or premiums charged to the insured**, unless the insurer notifies the insured in writing of the ~~[different terms or rates]~~ **change in policy or coverage provisions** at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy ~~[at]~~ **using** the expiring ~~[terms and rates:]~~ **policy or coverage provisions:**

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. The provisions of this section do not apply to a change in the rate for a policy of industrial insurance which is based on:

(a) A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; or

(b) A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.

3. **The provisions of this section do not apply to a renewal of a policy in which the change in policy or coverage provisions consists only of a:**

(a) **Decrease in the amount of the total premium charged to the insured for the renewal of the policy;**

(b) **Change in the effective date and expiration date of the policy if the duration of the renewed policy remains unchanged; or**

(c) Change in one or more conditions of the policy that are intended to make an aspect of the coverage provided by the policy more favorable to the insured and is not accompanied by a change in one or more conditions of the policy that are intended to make an aspect of the coverage provided by the policy less favorable to the insured.

Sec. 3. NRS 690B.020 is hereby amended to read as follows:

690B.020 1. Except as otherwise provided in this section and NRS 690B.035, no policy insuring against liability arising out of the ownership, maintenance or use of any motor vehicle may be delivered or issued for delivery in this State unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages, from owners or operators of uninsured or hit-and-run motor vehicles, for bodily injury, sickness or disease, including death, resulting from the ownership, maintenance or use of the uninsured or hit-and-run motor vehicle. No such coverage is required in or supplemental to a policy issued to the State of Nevada or any political subdivision thereof, or where rejected in writing, on a form furnished by the insurer describing the coverage being rejected, by an insured named therein, or upon any renewal of such a policy unless the coverage is then requested in writing by the named insured. The coverage required in this section may be referred to as “uninsured vehicle coverage.”

2. The amount of coverage to be provided must be not less than the minimum limits for liability insurance for bodily injury provided for under chapter 485 of NRS, but may be in ~~an amount not to exceed the coverage for bodily injury purchased by the policyholder.~~ **any greater amount.**

3. For the purposes of this section, the term “uninsured motor vehicle” means a motor vehicle:

(a) With respect to which there is not available at the Department of Motor Vehicles evidence of financial responsibility as required by chapter 485 of NRS;

(b) With respect to the ownership, maintenance or use of which there is no liability insurance for bodily injury or bond applicable at the time of the crash or, to the extent of such deficiency, any liability insurance for bodily injury or bond in force is less than the amount required by NRS 485.210;

(c) With respect to the ownership, maintenance or use of which the company writing any applicable liability insurance for bodily injury or bond denies coverage or is insolvent;

(d) Used without the permission of its owner if there is no liability insurance for bodily injury or bond applicable to the operator;

(e) Used with the permission of its owner who has insurance which does not provide coverage for the operation of the motor vehicle by any person other than the owner if there is no liability insurance for bodily injury or bond applicable to the operator; or

(f) The owner or operator of which is unknown or after reasonable diligence cannot be found if:

(1) The bodily injury or death has resulted from physical contact of the automobile with the named insured or the person claiming under the named insured or with an automobile which the named insured or such a person is occupying; and

(2) The named insured or someone on behalf of the named insured has reported the crash within the time required by NRS 484E.030, 484E.040 or 484E.050 to the police department of the city where it occurred or, if it occurred in an unincorporated area, to the sheriff of the county or to the Nevada Highway Patrol.

4. For the purposes of this section, the term “uninsured motor vehicle” also includes, subject to the terms and conditions of coverage, an insured other motor vehicle where:

(a) The liability insurer of the other motor vehicle is unable because of its insolvency to make payment with respect to the legal liability of its insured within the limits specified in its policy;

(b) The occurrence out of which legal liability arose took place while the uninsured vehicle coverage required under paragraph (a) was in effect; and

(c) The insolvency of the liability insurer of the other motor vehicle existed at the time of, or within 2 years after, the occurrence.

➔ Nothing contained in this subsection prevents any insurer from providing protection from insolvency to its insureds under more favorable terms.

5. If payment is made to any person under uninsured vehicle coverage, and subject to the terms of the coverage, to the extent of such payment the insurer is entitled to the proceeds of any settlement or recovery from any person legally responsible for the bodily injury as to which payment was made, and to amounts recoverable from the assets of the insolvent insurer of the other motor vehicle.

6. A vehicle involved in a crash which results in bodily injury or death shall be presumed to be an uninsured motor vehicle if no evidence of financial responsibility is supplied to the Department of Motor Vehicles in the manner required by chapter 485 of NRS within 60 days after the crash occurs.

Assemblywoman Jauregui moved the adoption of the amendment.

Remarks by Assemblywoman Jauregui.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 19.

Bill read second time and ordered to third reading.

Assembly Bill No. 31.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 18.

AN ACT relating to substances regulated by the State Department of Agriculture; requiring the State Board of Agriculture to adopt standards for diesel exhaust fluid; prohibiting certain commercial activities relating to diesel exhaust fluid in certain circumstances; transferring the duty to adopt standards for aviation fuel from the State Sealer of Consumer Equitability to the Board; requiring the Board to adopt standards for petroleum heating products, not including liquefied petroleum gas and natural gas; revising provisions relating to the storage and disposal of petroleum products; eliminating certain powers and duties of the State Sealer of Consumer Equitability relating to petroleum products; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Agriculture to adopt by regulation specifications for motor vehicle fuel that comply with certain requirements. (NRS 590.070) **Sections 1 and 3** of this bill additionally require the Board to adopt by regulation specification standards for diesel exhaust fluid and authorize the Board to follow the specification standards set forth by the International Organization for Standardization or by ASTM International. **Section 1** also makes it unlawful for a person to engage in certain commercial activities regarding diesel exhaust fluid unless the diesel exhaust fluid conforms to the specification standards prescribed by the Board. Finally, **section 1** makes a violation punishable by the imposition of a fine and authorizes the Board to request the district attorney to investigate a suspected violation or file a complaint, as set forth in **section 5** of this bill. Additionally, **section 5** requires the Board to enforce the specification standards for diesel exhaust fluid that are adopted by the Board. **Sections 2, 4 and 10-14** of this bill make conforming changes to indicate the appropriate placement of **section 1** in the Nevada Revised Statutes.

Existing law excludes “additives” from the definition of “petroleum products,” which has the effect of excluding additives from the regulatory requirements imposed on petroleum products. (NRS 590.020) **Section 3** revises the definition of “additives” to include substances added to motor vehicle fuel or petroleum heating product, which has the effect of excluding these substances from regulatory requirements which would otherwise apply. **Section 3** also applies the regulatory requirements for motor vehicle fuels to certain additional types of alternative fuels.

Existing law provides that it is unlawful for a person to engage in certain commercial activities regarding any aviation fuel unless the aviation fuel conforms to the specification standards prescribed by regulation of the State Sealer of Consumer Equitability. (NRS 590.073) **Section 6** of this bill transfers this duty to the Board. **Section 6** also makes a violation punishable by the imposition of a fine and authorizes the Board to request the district attorney to investigate a suspected violation or file a complaint, as set forth in **section 5**. Additionally, **section 5** requires the Board to enforce the specification standards for aviation fuel that are adopted by the Board.

Existing law makes it unlawful to engage in certain commercial activities regarding any petroleum or petroleum product to be used for heating purposes unless the petroleum or petroleum product conforms to the most recent standards adopted by ASTM International. (NRS 590.090) **Section 7** of this bill instead prohibits a person from engaging in such commercial activities relating to any petroleum heating product, not including liquefied petroleum gas or natural gas, unless the petroleum heating product conforms to specification standards prescribed by regulation of the Board. **Section 7** requires the Board to adopt such standards by regulation and requires the regulations to conform to the specification standards set forth by ASTM International. **Section 7** makes a violation of the prohibition against certain commercial activities relating to any petroleum heating product punishable by the imposition of a fine and authorizes the Board to request the district attorney to investigate a suspected violation or file a complaint, as set forth in **section 5**. Additionally, **section 5** requires the Board to enforce the specification standards adopted by the Board for petroleum heating products.

Existing law authorizes the State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, to take such samples as he or she deems necessary of any petroleum product or motor vehicle fuel. Existing law provides that it is unlawful for any person, or any officer, agent or employee thereof, to refuse to permit the State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, in the State of Nevada, to take such samples or to prevent the taking of such samples. (NRS 590.100) Section 8 of this bill removes the language which makes this an unlawful act. Section 8 instead provides that it is unlawful for any person, or any officer, agent or employee thereof, to hinder, obstruct or prevent, or attempt to hinder, obstruct or prevent the State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, the performance of certain duties. Section 8 further provides that it is unlawful for any person, or any officer, agent or employee thereof, to refuse to permit, during regular business hours, the State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, access to property or equipment in this State to carry out certain duties.

Existing law authorizes the State Sealer of Consumer Equitability, or the appointees thereof, to close and seal the outlets of any unlabeled or mislabeled containers, pumps, dispensers or storage tanks connected thereto or which contain any petroleum product or motor vehicle fuel which, if sold, would violate any labeling requirements that are set forth in the Nevada Petroleum Products Inspection Act. (NRS 590.100) **Section 8** ~~of this bill~~ authorizes the State Sealer of Consumer Equitability or his or her appointee, upon closing and sealing an outlet, to take meter readings and an inventory of the petroleum product or motor vehicle fuel. **Section 8** also requires the operator of a bulk storage facility where such a violation occurs to: (1) make arrangements to

replace or adjust the petroleum product or motor vehicle fuel to correct the violation; and (2) notify all customers that have or may have received the petroleum product or motor vehicle fuel that was in violation. After the petroleum product or motor vehicle fuel is removed, **section 8** requires: (1) the method of disposing of the petroleum product or motor vehicle fuel to be agreed to by the State Sealer of Consumer Equitability, or the appointees thereof, before the petroleum product or motor vehicle fuel is disposed of; and (2) the person who disposes of the petroleum product or motor vehicle fuel to make available upon request of the State Sealer of Consumer Equitability, or the appointees thereof, a written confirmation of the disposition of the products in violation. **Section 8** further authorizes such a confirmation to be in the form of a delivery ticket, an invoice ticket, a bill of lading, a bill of sale, a terminal ticket or any other proof of transfer that is approved by the Board. **Section 5** authorizes the Board to adopt regulations approving other types of proof of transfer.

Existing law requires the State Sealer of Consumer Equitability, or the appointees thereof, upon at least 24 hours' notice to certain persons, to break a seal for the purpose of removing the contents of the container, pump, dispenser or storage tank. (NRS 590.100) Section 8 authorizes this 24 hours' notice requirement to be waived if the State Sealer of Consumer Equitability, or the appointees thereof, and certain persons agree in writing to the waiver.

Existing law requires the Board to adopt by regulation: (1) certain specifications for motor vehicle fuel; and (2) procedures for allowing variances from such specifications for motor vehicle fuel. Existing law requires any petroleum or petroleum product that is sold or offered for sale as motor vehicle fuel to conform with the regulations that the Board adopts. (NRS 590.070) Additionally, existing law requires the State Sealer of Consumer Equitability to adopt by regulation standard procedures for testing petroleum products and motor vehicle fuel. Existing law further authorizes the State Sealer of Consumer Equitability to adopt specification standards for certain types of fuel that are used in internal combustion engines. (NRS 590.100) **Section 8** removes this requirement and authority from the State Sealer of Consumer Equitability, thereby leaving only the Board with the authority to regulate such products and fuels.

Section 9 of this bill updates the publication required by existing law to be used for gravity and volume conversion and temperature correction of 60°F. (NRS 590.105)

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

Section 1. Chapter 590 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The State Board of Agriculture shall adopt by regulation specification standards for diesel exhaust fluid.*

2. *When adopting the regulations required pursuant to subsection 1, the State Board of Agriculture may follow the specification standards set forth by the International Organization for Standardization or by ASTM International.*

3. *It is unlawful for any person to sell, offer for sale or assist in the sale of, or permit to be sold or offered for sale, any diesel exhaust fluid unless the diesel exhaust fluid conforms to the specification standards prescribed by regulation of the State Board of Agriculture pursuant to subsection 1.*

4. *In addition to any criminal penalty that is imposed pursuant to the provisions of NRS 590.150, any person who violates any provision of this section may be further punished as provided in NRS 590.071.*

Sec. 2. NRS 590.010 is hereby amended to read as follows:

590.010 NRS 590.010 to 590.150, inclusive, *and section 1 of this act* may be known and cited as the Nevada Petroleum Products Inspection Act.

Sec. 3. NRS 590.020 is hereby amended to read as follows:

590.020 As used in NRS 590.010 to 590.330, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. “Additives” means a substance to be added to a *motor vehicle fuel, petroleum heating product*, motor oil or lubricating oil to impart or improve desirable properties or to suppress undesirable properties.

2. “Advertising medium” means any sign, printed or written matter, or device for oral or visual communication.

3. “Alternative fuel” includes, without limitation ~~premium diesel fuel, B-5 diesel fuel, B-10 diesel fuel, B-20 diesel fuel, B-100 diesel fuel,~~

(a) *Any M-85 ~~or~~ M-100 ~~fuel methanol that meets the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070;~~*

(b) *Any E-85 ~~or~~ E-100 ~~liquefied~~ fuel ethanol that meets the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070;*

(c) *Liquefied petroleum gas ~~natural~~;*

(d) *Natural gas ~~reformulated gasoline, gasohol and oxygenated fuel~~;*

(e) *Any hydrogen that meets the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070;*

(f) *Electricity;*

(g) *Any biodiesel fuel that contains:*

(1) *Diesel that meets the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070; and*

(2) *At least 5 percent by volume biodiesel fuel blend stock for distillate fuels;*

(h) *Any blend of ethanol and diesel fuel:*

(1) *That contains:*

(I) *Any amount of diesel fuel that meets the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070; and*

(II) *At least 5 percent by volume ethanol; and*

(2) *That may contain a proprietary additive; and*

(i) *Any renewable diesel fuel that:*

(1) *Contains at least 20 percent by volume renewable diesel blend stock for distillate fuels; and*

(2) *If a part of a blend stock, contains diesel that meets the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070.*

↪ *The term does not include a fuel that is required for use in this State pursuant to a state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410.*

4. “Brand name” means a name or logo that is used to identify a business or company.

5. *“Diesel exhaust fluid” means an aqueous urea solution that:*

(a) *Contains, by mass, 32.5 percent technically pure urea and 67.5 percent pure water;*

(b) *Is used in selective catalytic reduction to lower oxides of nitrogen concentration in the exhaust emissions of diesel engines; and*

(c) *Meets the standards set forth in the latest version of ISO 22241, “Diesel engines — NO_x reduction agent AUS 32” of the International Organization for Standardization.*

6. “Grade” means:

(a) “Regular,” “midgrade,” “plus,” “super,” “premium” or words of similar meaning when describing a grade designation for gasoline.

(b) “Diesel” or words of similar meaning, including, without limitation, any specific type of diesel, when describing a grade designation for diesel motor fuel.

(c) “M-85,” “M-100,” “E-85,” “E-100” or words of similar meaning when describing a grade designation for alternative fuel.

(d) “Propane,” “liquefied petroleum gas,” “compressed natural gas,” “liquefied natural gas” or words of similar meaning when describing pressurized gases.

~~6.~~ 7. “Motor vehicle fuel” means a petroleum product or alternative fuel used for internal combustion engines in motor vehicles. *The term does not include motor vehicle fuel additives.*

~~7.~~ 8. “Performance rating” means the system adopted by the American Petroleum Institute for the classification of uses for which an oil is designed.

~~8.~~ 9. *“Petroleum heating product” means a petroleum product that is used for heating purposes. The term does not include petroleum heating product additives.*

10. “Petroleum products” means gasoline, diesel fuel, burner fuel kerosene, lubricating oil, motor oil or any product represented as motor oil or lubricating oil. The term does not include liquefied petroleum gas, natural gas or motor oil additives.

~~9.~~ 11. *“Pure water” means water that is:*

(a) *Very low in inorganic, organic or colloidal contaminants; and*

(b) *Produced by a process such as:*

- (1) *Single distillation;*
- (2) *Deionization;*
- (3) *Ultra-filtration; or*
- (4) *Reverse osmosis.*

12. “Recycled oil” means a petroleum product which is prepared from used motor oil or used lubricating oil. The term includes rerefined oil.

~~10~~ 13. “Rerefined oil” means used oil which is refined after its previous use to remove from the oil any contaminants acquired during the previous use.

14. **“Technically pure urea” means urea that is:**

(a) **An industrially produced grade of urea with traces of biuret, ammonia and water only;**

(b) **Free of aldehydes or other substances, including, without limitation, anticaking agents; and**

(c) **Free of contaminants, including, without limitation, sulphur and its compounds, chloride and nitrate.**

~~11~~ 15. “Used oil” means any oil which has been refined from crude or synthetic oil and, as a result of use, has become unsuitable for its original purpose because of a loss of its original properties or the presence of impurities, but which may be suitable for another use or economically recycled.

~~12~~ 16. “Viscosity grade classification” means the measure of an oil’s resistance to flow at a given temperature according to the grade classification system of the Society of Automotive Engineers or other grade classification.

Sec. 4. NRS 590.040 is hereby amended to read as follows:

590.040 1. It is unlawful for any person to sell or offer to sell any motor vehicle fuel unless a sign or label is firmly attached to or painted at or near the outlet of the container from which or into which the motor vehicle fuel is dispensed or received for sale or delivery. Except as otherwise provided in this section, the sign or label, in letters not less than one-half inch in height, must contain the brand name and the grade designation of the motor vehicle fuel. All containers and dispensers of lubricating and motor oil must also be labeled in the same manner with the oil’s viscosity grade classification and performance rating. If a lubricating or motor oil has more than one viscosity grade classification or performance rating, each viscosity grade classification and performance rating must be included in the label. When the sign or label is attached to the faucet or valve of a tank truck or tank wagon, the letters must be not less than one-half inch in height. The provisions of this subsection do not apply to any oil labeled “prediluted” or intended only for mixture with gasoline or other motor vehicle fuel in a two-cycle engine.

2. The inlet end of the fill pipe to each storage tank of motor vehicle fuel must be labeled with the brand name and the grade of the motor vehicle fuel contained therein or have a product-specific pressure vessel fill connection.

3. Delivery outlets for motor vehicle fuel on tank delivery trucks must be labeled to comply with the requirements of this section before departure from the bulk plants.

4. If any motor vehicle fuel has no brand name, the sign or label required by subsection 1 must consist of words, in letters not less than 3 inches high, that designate the specific type of motor vehicle fuel followed by the words “No Brand,” such as “Gasoline, No Brand” or “E-100, No Brand.”

5. On any container with a net content of 1 United States gallon or less, the brand name or trademark, the name and address of the distributor or manufacturer, the viscosity grade classification, the performance rating and the words “Motor Oil” or “Lubricating Oil” must be painted, printed, embossed or otherwise firmly affixed on the container in letters and numerals of legible size. Such a designation constitutes compliance with the provisions of this section.

6. Small hand measures used for delivery of petroleum products or motor vehicle fuel that are filled in the presence of the customer need not be labeled in accordance with the provisions of NRS 590.010 to 590.150, inclusive, **and section 1 of this act** if the receptacle, container or pump from which petroleum products or motor vehicle fuel is drawn or poured into the hand measures is properly labeled as required by the provisions of NRS 590.010 to 590.150, inclusive ~~†~~, **and section 1 of this act**.

Sec. 5. NRS 590.071 is hereby amended to read as follows:

590.071 1. The State Board of Agriculture shall:

(a) Enforce the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070.

(b) **Enforce the specification standards for diesel exhaust fluid adopted by regulation pursuant to section 1 of this act.**

(c) **Enforce the specification standards for aviation fuel adopted by regulation pursuant to NRS 590.073.**

(d) **Enforce the specification standards for petroleum heating products adopted by regulation pursuant to NRS 590.090.**

(e) Adopt regulations specifying a schedule of fines that it may impose, upon notice and hearing, for each violation of the provisions of NRS 590.070 ~~†~~, **590.073 and 590.090 and section 1 of this act**. The maximum fine that may be imposed by the Board for each violation must not exceed \$5,000 per day. All fines collected by the Board pursuant to the regulations adopted pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

2. The State Board of Agriculture may:

(a) **Adopt regulations approving other types of proof of transfer as described in subsection 9 of NRS 590.100. Such proof of transfer must contain:**

(1) **The name of the person or business who makes the transfer;**

(2) **The name of the person or business to whom the petroleum product or motor vehicle fuel is transferred;**

(3) **The date of the transfer;**

(4) **If the motor vehicle fuel is gasoline, the octane rating number of the gasoline; and**

(5) If the meter readings and physical inventory is taken or caused to be taken pursuant to subsection 5 of NRS 590.100, the volume, in gallons, of the petroleum product or motor vehicle fuel that is transferred.

(b) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation.

~~[(b)]~~ *(c)* Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the Board suspects may have violated any provision of NRS 590.070 ~~[(c)]~~, *590.073 and 590.090 and section 1 of this act.*

Sec. 6. NRS 590.073 is hereby amended to read as follows:

590.073 1. ~~[(1)]~~ *The State Board of Agriculture shall adopt by regulation specification standards for aviation fuel.*

2. *When adopting the regulations required pursuant to subsection 1, the State Board of Agriculture may follow the specification standards set forth by ASTM International.*

3. *Except as otherwise provided in subsection 5, it is unlawful for any person to sell, offer for sale or assist in the sale of, or permit to be sold or offered for sale, any aviation fuel unless such fuel conforms to the specification standards prescribed by regulation of the State ~~[(Sealer of Consumer Equitability). The State Sealer of Consumer Equitability may follow the specification standards set forth by ASTM International.~~*
~~— 2.]~~ *Board of Agriculture pursuant to subsection 1.*

4. *In addition to any criminal penalty that is imposed pursuant to the provisions of NRS 590.150, any person who violates any provision of this section may be further punished as provided in NRS 590.071.*

5. This section does not apply to aviation fuel for use by military aircraft.

Sec. 7. NRS 590.090 is hereby amended to read as follows:

590.090 1. *The State Board of Agriculture shall adopt by regulation specification standards for petroleum heating products, not including liquefied petroleum gas and natural gas. Such regulations must conform to the specification standards set forth by ASTM International.*

2. It is unlawful for any person, or any officer, agent or employee thereof, to sell, offer for sale, or assist in the sale of or permit to be sold or offered for sale any ~~[(petroleum or)]~~ petroleum *heating* product ~~[(to be used for heating purposes.)]~~, *not including liquefied petroleum gas and natural gas*, unless the ~~[(petroleum or)]~~ petroleum *heating* product conforms to the ~~[(most recent)]~~ *specification* standards ~~[(adopted by ASTM International.)]~~ *prescribed by regulation of the State Board of Agriculture pursuant to subsection 1.*

~~[(2)]~~ 3. All bulk storage tanks, dispensers and petroleum tank truck compartment outlets containing or dispensing heating fuel must be labeled with the brand name and the grade designation of the heating fuel.

~~[(3)]~~ 4. A person shall not use the numerical grade designation for heating fuels adopted by ASTM International unless the designation conforms to that designation. Persons using a designation other than the numerical grade designation adopted by ASTM International must file with the Division of

Consumer Equitability of the State Department of Agriculture the designation to be used together with its corresponding grade designation of ASTM International.

5. In addition to any criminal penalty that is imposed pursuant to the provisions of NRS 590.150, any person who violates any provision of this section may be further punished as provided in NRS 590.071.

Sec. 8. NRS 590.100 is hereby amended to read as follows:

590.100 The State Sealer of Consumer Equitability is charged with the proper enforcement of NRS 590.010 to 590.150, inclusive, **and section 1 of this act** and has the following powers and duties:

1. The State Sealer of Consumer Equitability may publish reports relating to petroleum products and motor vehicle fuel in such form and at such times as he or she deems necessary.

2. The State Sealer of Consumer Equitability, or the appointees thereof, shall inspect and check the accuracy of all measuring devices for petroleum products and motor vehicle fuel maintained in this State, and shall seal all such devices whose tolerances are found to be within those prescribed by the National Institute of Standards and Technology.

3. The State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, may take such samples as he or she deems necessary of any petroleum product or motor vehicle fuel that is kept, transported or stored within the State of Nevada. ~~It is unlawful for any person, or any officer, agent or employee thereof, to refuse to permit the State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, in the State of Nevada, to take such samples, or to prevent or to attempt to prevent the State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, from taking them.~~ If the person, or any officer, agent or employee thereof, from which a sample is taken at the time of taking demands payment, then the person taking the sample shall pay the reasonable market price for the quantity taken.

4. The State Sealer of Consumer Equitability, or the appointees thereof, may close and seal the outlets of any ~~unlabeled or mislabeled~~ containers, pumps, dispensers or storage tanks connected thereto **which are unlabeled or mislabeled** or which contain any petroleum product or motor vehicle fuel which, if sold, would violate any of the provisions of NRS 590.010 to 590.150, inclusive, **and section 1 of this act** and shall post, in a conspicuous place on the premises where those containers, pumps, dispensers or storage tanks have been sealed, a notice stating that the action of sealing has been taken in accordance with the provisions of NRS 590.010 to 590.150, inclusive, **and section 1 of this act** and giving warning that it is unlawful to break, mutilate or destroy the seal or seals thereof under penalty as provided in NRS 590.110.

5. Upon closing and sealing an outlet pursuant to subsection 4, the State Sealer of Consumer Equitability, or the appointees thereof:

(a) May take or cause to be taken meter readings and a physical inventory of the petroleum product or motor vehicle fuel; and

(b) If meter readings and an inventory are taken pursuant to paragraph (a), shall ensure that the findings of the meter readings and physical inventory are reported in the confirmation for disposition.

6. If a violation of any of the provisions of NRS 590.010 to 590.150, inclusive, and section 1 of this act occurs at a bulk storage facility, the operator of the bulk storage facility shall, within 12 hours after being notified by the State Sealer of Consumer Equitability, or the appointees thereof, of the violation, make any arrangements necessary to replace or adjust the petroleum product or motor vehicle fuel so that the product or fuel is no longer in violation. Except as otherwise provided in this subsection, the operator of the bulk storage facility shall also, within 12 hours after being notified by the State Sealer of Consumer Equitability, or the appointees thereof, notify all customers that have or may have received the petroleum product or motor vehicle fuel that is in violation. The operator of the bulk storage facility shall make available to the State Sealer of Consumer Equitability, or the appointees thereof, upon request, a complete list of customers contacted and how such contact was made. The State Sealer of Consumer Equitability may exempt from the notification requirement a bulk storage facility where such a violation occurs if:

(a) The petroleum product or motor vehicle fuel is used for blending purposes or is designed for special equipment or services; and

(b) The operator of the bulk storage facility can demonstrate that the distribution of the petroleum product or motor vehicle fuel will be restricted to those uses.

7. ~~The~~ Except as otherwise provided in this subsection, the State Sealer of Consumer Equitability, or the appointees thereof, shall, upon at least 24 hours' notice to the owner, manager, operator or attendant of the premises where a container, pump, dispenser or storage tank has been sealed ~~it~~ pursuant to subsection 4, and at the time specified in the notice, break the seal for the purpose of permitting the removal of the contents of the container, pump, dispenser or storage tank. If the contents are not immediately and completely removed, the container, pump, dispenser or storage tank must be again sealed. The requirement to provide 24 hours' notice pursuant to this subsection may be waived if the State Sealer of Consumer Equitability, or the appointees thereof, and the owner, manager, operator or attendant of the premises where a container, pump, dispenser or storage tank has been sealed agree in writing to the waiver.

~~6-~~ 8. After removing the contents pursuant to subsection 7 and before the contents may be disposed of, the method of disposition of the contents must be agreed to by the State Sealer of Consumer Equitability, or the appointees thereof.

9. After the method of disposition of the contents is agreed to pursuant to subsection 8 and the disposition occurs, the person who disposes of the contents shall make available in writing to the State Sealer of Consumer Equitability, or the appointees thereof, a confirmation of the disposition of

the products in violation. Such a confirmation of disposition must include the volume, in gallons, of the petroleum product or motor vehicle fuel that is transferred if the meter readings and physical inventory are taken or caused to be taken pursuant to subsection 5. A confirmation of the disposition of the products in violation may be in the form of:

- (a) A delivery ticket;*
- (b) An invoice;*
- (c) A bill of lading;*
- (d) A bill of sale;*
- (e) A terminal ticket; or*
- (f) Any other proof of transfer that is approved by the State Board of Agriculture pursuant to paragraph (a) of subsection 2 of NRS 590.071.*

10. The State Sealer of Consumer Equitability shall adopt regulations which are necessary for the enforcement of NRS 590.010 to 590.150, inclusive, ~~including standard procedures for testing petroleum products or motor vehicle fuel which are based on sources such as those approved by ASTM International, and may adopt specifications for any fuel for use in internal combustion engines which is sold or offered for sale and contains any alcohol or other combustible chemical that is not a petroleum product or motor vehicle fuel.~~ and section 1 of this act.

11. It is unlawful for any person, or any officer, agent or employee thereof, to hinder, obstruct or prevent, or attempt to hinder, obstruct or prevent, the State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, the performance of his or her duties described in this section, including, without limitation, refusing to permit, during regular business hours, the State Sealer of Consumer Equitability, or the appointees thereof, or any member of the Nevada Highway Patrol, access to property or equipment in this State.

12. As used in this section, “bulk storage facility” means a facility that is used to temporarily store a petroleum product or motor vehicle fuel in bulk before distribution of the petroleum product or motor vehicle fuel to retail, commercial or consumer outlets.

Sec. 9. NRS 590.105 is hereby amended to read as follows:

590.105 For the purpose of testing petroleum products or motor vehicle fuel as provided in NRS 590.010 to 590.150, inclusive, *and section 1 of this act*, the ASTM ~~IP~~ Petroleum Measurement Tables ~~— American Edition.~~ must be used for gravity and volume conversion and temperature correction of 60°F.

Sec. 10. NRS 590.120 is hereby amended to read as follows:

590.120 1. Every person, or any officer, agent or employee thereof, shipping or transporting any motor vehicle fuel or lubricating oil into this State for sale or consignment, or with intent to sell or consign the same, shall pay to the Department of Motor Vehicles an inspection fee of 0.055 of a cent per gallon for every gallon of motor vehicle fuel or lubricating oil so shipped or transported into the State, or that is held for sale within this State. This section

does not require the payment of an inspection fee on any shipment or consignment of motor vehicle fuel or lubricating oil when the inspection fee has been paid.

2. The inspection fees collected pursuant to the provisions of subsection 1, together with any penalties and interest collected thereon, must be transferred quarterly to the account in the State General Fund created pursuant to NRS 561.412 for the use of the State Department of Agriculture.

3. On or before the last day of each calendar month, every person, or any officer, agent or employee thereof, required to pay the inspection fee described in subsection 1 shall send to the Department of Motor Vehicles a correct report of the motor vehicle fuel or oil volumes for the preceding month. The report must include a list of distributors or retailers distributing or selling the products and must be accompanied by the required fees.

4. Failure to send the report and remittance as specified in subsections 1 and 3 is a violation of NRS 590.010 to 590.150, inclusive, **and section 1 of this act** and is punishable as provided in NRS 590.150.

5. The provisions of this section must be carried out in the manner prescribed in chapters 360A and 365 of NRS.

6. All expenses incurred by the Department of Motor Vehicles in carrying out the provisions of this section are a charge against the account created pursuant to NRS 561.412.

7. For the purposes of this section, “motor vehicle fuel” does not include diesel fuel, burner fuel or kerosene.

Sec. 11. NRS 590.140 is hereby amended to read as follows:

590.140 The district attorney of each county shall prosecute all violations of the provisions of NRS 590.010 to 590.150, inclusive, **and section 1 of this act** occurring within the county.

Sec. 12. NRS 590.150 is hereby amended to read as follows:

590.150 1. Any person, or any officer, agent or employee thereof, who violates any of the provisions of NRS 590.010 to 590.140, inclusive, **and section 1 of this act** is guilty of a misdemeanor.

2. Each such person, or any officer, agent or employee thereof, is guilty of a separate offense for each day during any portion of which any violation of any provision of NRS 590.010 to 590.140, inclusive, **and section 1 of this act** is committed, continued or permitted by such person, or any officer, agent or employee thereof, and shall be punished as provided in this section.

3. The selling and delivery of any petroleum product or motor vehicle fuel mentioned in NRS 590.010 to 590.140, inclusive, **and section 1 of this act** is prima facie evidence of the representation on the part of the vendor that the quality sold and delivered was the quality bought by the vendee.

Sec. 13. NRS 561.385 is hereby amended to read as follows:

561.385 1. The Agriculture Registration and Enforcement Account is hereby created in the State General Fund for the use of the Department.

2. The following fees must be deposited in the Agriculture Registration and Enforcement Account:

(a) Except as otherwise provided in NRS 586.270 and 586.940, fees collected pursuant to the provisions of chapter 586 of NRS.

(b) Fees collected pursuant to the provisions of chapter 588 of NRS.

(c) Fees collected pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

(d) Laboratory fees collected for the testing of pesticides as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 555.2605 to 555.460, inclusive, and, except as otherwise provided in NRS 586.270 and 586.940, chapter 586 of NRS.

(e) Laboratory fees collected for the analysis and testing of commercial fertilizers and agricultural minerals, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 588 of NRS.

(f) Laboratory fees collected for the analysis and testing of petroleum products or motor vehicle fuel, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.010 to 590.150, inclusive ~~†~~, **and section 1 of this act.**

(g) Laboratory fees collected for the analysis and testing of antifreeze, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

3. Expenditures from the Agriculture Registration and Enforcement Account may be made to carry out the provisions of this chapter, NRS 555.2605 to 555.460, inclusive, or chapters 586, 588 and 590 of NRS or for any other purpose authorized by the Legislature.

Sec. 14. NRS 561.412 is hereby amended to read as follows:

561.412 1. In addition to the inspection fees and other money transferred pursuant to NRS 590.120, all fees and other money collected pursuant to the provisions of NRS 581.001 to 581.395, inclusive, and 582.001 to 582.210, inclusive, must be deposited in the State Treasury and credited to a separate account in the State General Fund for the use of the Department.

2. Expenditures from the account must be made only for carrying out the provisions of this chapter and chapters 581 and 582 of NRS and NRS 590.010 to 590.330, inclusive ~~†~~, **and section 1 of this act.**

3. Money in the account does not lapse to the State General Fund at the end of a fiscal year. The interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account.

Sec. 15. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of

the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 16. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 15, inclusive, of this act become effective:

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

(b) On July 1, 2021, for all other purposes.

Assemblyman Watts moved the adoption of the amendment.

Remarks by Assemblyman Watts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 34.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 24.

AN ACT relating to pest control; defining the term “control” as it applies to the control of noxious weeds by the owner or operator of land; authorizing the Director of the State Department of Agriculture to adopt regulations that establish and administer a program to certify certain agricultural products as being free from propagative parts from which noxious weeds may grow; authorizing certain notices to be delivered by electronic mail; exempting certain businesses that sell nursery stock only to the public exclusively via the Internet from certain licensure requirements; revising the prohibition against engaging in certain activities involving pest control without a license; revising provisions governing the certification of persons to apply or supervise the application of restricted-use pesticides; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

During the 2015 Legislative Session, Assembly Bill No. 77 replaced references to the cutting, eradication, removal or destruction of weeds with the term “control.” (Chapter 526, Statutes of Nevada 2015, at page 3588) **Section** ~~14~~ **1.5** of this bill defines “control” to mean the cutting, destruction or eradication of established noxious weed populations to prevent: (1) the spread, maturation and dispersal of any propagative part of the noxious weed; and (2) the reproduction and spread of such noxious weeds.

Existing law authorizes the Director of the State Department of Agriculture to, by regulation, establish and administer a program to certify agricultural products as being free from noxious weeds to: (1) support the control and prevention of the spread of noxious weeds in this State; and (2) allow businesses in this State to market such agricultural products as being in compliance with any applicable federal law or regulation or any other requirement specified by the Director. (NRS 555.010) **Sections 1.5 and 2** of this bill expand the program by authorizing the Director to ~~[(1)]~~ adopt such regulations to certify agricultural products as being free from any propagative parts from which a noxious weed may grow ~~[(1)]~~ and ~~(2) establish and collect reasonable fees for the program.~~ **Section 2** additionally expands the purposes of the program to include allowing businesses in this State to market agricultural products as being in compliance with the guidelines set forth by the North American Invasive Species Management Association, in addition to applicable federal law or regulation or any other requirement specified by the Director.

Existing law authorizes the Department to provide a written notice of its finding that an area is infested with certain pests, noxious weeds or plant diseases to the owner or occupant of the area. (NRS 555.100) Existing law also authorizes the State Quarantine Officer to serve notice on the owner or occupant of land where noxious weeds are found. (NRS 555.160) **Sections 3 and 4** of this bill authorize such notices to be served by electronic mail.

Existing law requires a person who is a dealer of nursery stock to obtain a license from the Director to engage in such business. Existing law exempts a business that is licensed by another state that sells nursery stock only to the public exclusively by catalog from the licensing requirement. (NRS 555.236) **Section 5** of this bill expands this exemption to a business that is licensed by another state that sells nursery stock only to the public exclusively via the Internet.

Existing law prohibits a natural person from engaging in pest control or serving as an agent, operator, pilot, primary principal, location principal or principal for pest control within this State at any time without a license as an applicator issued by the Director. (NRS 555.280) **Section 15** of this bill applies this prohibition only to such activities engaged in for hire or for profit without a license. **Section 15** additionally prohibits a natural person or business entity from operating as a pest control business for hire or for profit within this State at any time without a business license issued by the Director.

Section 25 of this bill eliminates provisions of existing law providing for the certification of a governmental agency to engage in pest control and the licensure of an employee of such an agency to engage in pest control in the course and scope of his or her employment. (NRS 555.2642, 555.2643, 555.2688, 555.2771-555.2775) **Sections 6-8, 14 and 16-19** of this bill instead provide for the certification of employees of a government agency who engage in pest control as non-private applicators in the same manner as other applicators of pesticides are certified.

Sections 1, 9, 11, ~~13~~, 13, 20, 22 and 23 of this bill replace references to “certified applicators,” who are authorized to apply or supervise the application of restricted-use pesticides, with references to “**authorized commercial applicators**,” “**certified non-private applicators**,” and “private applicators,” which are the categories of persons authorized to apply or supervise the application of such pesticides. **Section 5.5 of this bill makes a conforming change to indicate the proper placement of section 1 of this bill in the Nevada Revised Statutes.**

Section 12 of this bill provides that a restricted-use pesticide is a certain type of pesticide that has been classified for restricted use in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act.

Section 18 of this bill authorizes the Director to investigate any loss or damage resulting from the application of any pesticide by a commercial applicator or authorized commercial applicator.

Section 19 of this bill authorizes the Director to take disciplinary action against a person licensed to engage in pest control who fails to provide adequate instruction or supervision to an unlicensed applicator working under the licensee’s supervision.

Section 20 of this bill provides that a person licensed as a commercial applicator and authorized to engage in pest control is authorized to use or supervise the use of restricted-use pesticides without obtaining a certificate if the licensee complies with certain requirements.

Section 21 of this bill requires an applicant for a certificate to use a restricted-use pesticide to demonstrate that he or she satisfies the standards set forth in applicable federal regulations if the applicant is applying to be certified as a non-private applicator or private applicator.

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

Section 1. Chapter 555 of NRS is hereby amended by adding thereto a new section to read as follows:

“Authorized commercial applicator” means an applicator who for hire or for profit is licensed to apply or supervise the application of any general-use pesticide and who is authorized to apply or supervise the application of any restricted-use pesticide pursuant to NRS 555.351.

~~Section 1.~~ **Sec. 1.5.** NRS 555.005 is hereby amended to read as follows:

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

1. ***“Control” means to cut, destroy or eradicate established noxious weed populations in order to prevent:***

(a) The spread, maturation and dispersal of any propagative part of the noxious weed; and

(b) The reproduction and spread of the noxious weed.

2. ***“Department” means the State Department of Agriculture.***

~~{2-}~~ 3. “Director” means the Director of the Department.

~~{3-}~~ 4. “Noxious weed” means any species of plant which is, or is likely to be, a public nuisance, detrimental or destructive and difficult to control.

~~{4-}~~ 5. “Pest” means any form of animal or vegetable life detrimental to the crops, horticulture, livestock, public health, wildlife, quality of water and beneficial uses of land in this State, including, without limitation, any insect, snail, nematode, fungus, virus, bacterium, microorganism, mycoplasma, weed, parasitic plant or any other plant that is normally considered to be a pest of cultivated plants, uncultivated plants, agricultural commodities, horticultural products or nursery stock, or that the Director declares to be a pest.

~~{5-}~~ 6. ***“Propagative part” means any seed, cutting or other plant part from which a noxious weed can grow.***

7. “Vertebrate pest” means any animal of the subphylum Vertebrata, except predatory animals, which is normally considered to be a pest, including a gopher, ground squirrel, rat, mouse, starling, blackbird and any other animal which the Director may declare to be a pest.

Sec. 2. NRS 555.010 is hereby amended to read as follows:

555.010 Within the limits of any appropriation made by law:

1. The Director may:

- (a) Investigate the prevalence of; and
- (b) Take the necessary action to control,

↪ vertebrate and invertebrate pests of plants and animals, plant diseases, physiological plant disorders and noxious weeds for the protection of the crops, livestock, public health, wildlife, water quality and beneficial uses of land in the State of Nevada.

2. The Director may, by regulation, establish and administer a program to certify agricultural products as being free from noxious weeds ***and any propagative parts*** to support the control and prevention of the spread of noxious weeds in this State and to allow businesses in this State to market those products in compliance with ***the guidelines set forth by the North American Invasive Species Management Association***, any applicable federal law or regulation or any other requirement specified by the Director. ~~***The Director may establish and collect reasonable fees for such a program.***~~

Sec. 3. NRS 555.100 is hereby amended to read as follows:

555.100 1. The Department shall, if necessary or if a complaint is made to the Department, cause an inspection to be conducted of any premises, land, means of conveyance or article of any person in this State if it is found to be infested with any pest, noxious weed or plant disease that is injurious to:

- (a) The public health or quality of any water in this State; or
- (b) Any wildlife, beneficial use of land or agriculture in this State.

2. The Department may provide a written notice of its findings to the owner or occupant of the premises, land, means of conveyance or article and require the owner or occupant to control the pest, noxious weed or plant disease in the manner and within the period specified in the notice.

3. A notice issued pursuant to the provisions of subsection 2:

(a) May be served upon the owner or occupant by an officer or employee of the Department; and

(b) Must be served in writing, by certified mail , **by *electronic mail*** or personally, with receipt given therefor.

Sec. 4. NRS 555.160 is hereby amended to read as follows:

555.160 1. The State Quarantine Officer shall make or cause to be made a careful examination and investigation of the spread, development and growth of noxious weeds in this State. Upon the discovery of those weeds, the State Quarantine Officer shall ascertain the name of the owner or occupant of the land and the description of the land where the weeds are found. The State Quarantine Officer may serve notice in writing upon the owner or occupant of the land to control the weeds within such time and in such manner as designated and described in the notice. One such notice shall be deemed sufficient for the entire season of weed growth during that year.

2. Notices may be served upon the owner or occupant by an officer or employee of the Department, and must be served in writing, personally or by certified mail **or *electronic mail***, with receipt given therefor.

Sec. 5. NRS 555.236 is hereby amended to read as follows:

555.236 1. Except as otherwise provided in this section, a person who engages in the commercial production, holding, distribution, collection or selling of nursery stock must obtain a license from the Director, except:

(a) Retail florists or other persons who sell potted, ornamental plants intended for indoor decorative purposes.

(b) A person not engaged in the nursery or landscaping business who raises nursery stock as a hobby in this State from which the person makes occasional sales, if the person does not advertise or solicit for the sale of that nursery stock.

(c) Persons engaged in agriculture and field-growing vegetable plants intended for sale for use in agricultural production.

(d) At the discretion of the Director, persons selling vegetable bulbs or flower bulbs, including, without limitation, onion sets, tulip bulbs and similar bulbs.

(e) A business licensed by another state that sells nursery stock only to:

(1) A licensed dealer of nursery stock in this State; or

(2) The public exclusively by catalog **or *via the Internet***.

(f) A garden club or charitable nonprofit association conducting sales of nursery stock, provided that the garden club or nonprofit association has applied for and received a permit from the Director to conduct such sales. The Department shall not charge a fee for such a permit.

(g) A state or local governmental entity, including a conservation district. The Department may inspect any plant materials held, distributed, collected or sold by such an entity.

2. The Director may waive the requirements relating to licensing set forth in NRS 555.235 to 555.249, inclusive, for a person otherwise required to obtain a license pursuant to this section if the person only has occasional sales

of nursery stock to the ultimate customer. To obtain a waiver pursuant to this subsection, the person must:

(a) Submit to the Department a completed application for a license to engage in the business of a dealer of nursery stock that includes sufficient information to demonstrate that the person qualifies for a waiver pursuant to this subsection; and

(b) Submit to the Director a notarized affidavit on a form provided by the Department attesting that all information furnished in the completed application is true.

↪ A completed application submitted to the Department pursuant to this section need not be accompanied by the fee required by NRS 555.238. A waiver issued pursuant to this subsection may be revoked at any time and must be renewed annually.

3. Persons, state agencies or political subdivisions exempt from the licensing requirements:

(a) Shall conduct their businesses in accordance with pest regulations and grades and standards for nursery stock as established by the Director.

(b) Shall register annually, on or before July 1, with the Department, the location, size and type of nursery stock being sold or produced.

4. As used in this section, “occasional sales” means sales of nursery stock in a gross annual amount that is less than \$1,000.

Sec. 5.5. NRS 555.2605 is hereby amended to read as follows:

555.2605 As used in NRS 555.2605 to 555.460, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 555.261 to 555.2695, inclusive, **and section 1 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 555.26155 is hereby amended to read as follows:

555.26155 “Applicator” means a natural person, ***including, without limitation, a natural person who is employed by a city, county, state or other governmental agency,*** who ~~engages in pest control. The term does not include a government applicator.~~ ***applies or supervises the application of any pesticide.***

Sec. 7. NRS 555.2617 is hereby amended to read as follows:

555.2617 “Certificate” means a certificate of competency issued by the Director to a ~~commercial applicator,~~ ***non-private applicator*** or private applicator authorizing the applicator to ~~make application of~~ ***purchase, use or to supervise the application*** ***use*** of a restricted-use pesticide.

Sec. 8. NRS 555.2618 is hereby amended to read as follows:

555.2618 ~~“Certified”~~ ***“Non-private applicator”*** means ~~any~~ :

1. A natural person who is employed by a city, county, state or other governmental agency, including, without limitation, a conservation district or a weed control district, who ~~is certified and who applies~~ :

(a) Is licensed to apply or supervise the application of any general-use pesticide; or

(b) Is licensed to apply or ~~supervises~~ supervise the application of any general-use pesticide ~~for~~ and is certified to apply or supervise the application of any restricted-use pesticide; or

2. **An applicator who is certified ~~by the Director as qualified to use or to supervise the use~~ and who applies or supervises the application of any restricted-use pesticide ~~+~~ and does not qualify as a private applicator under NRS 555.2681.**

Sec. 9. NRS 555.2619 is hereby amended to read as follows:

555.2619 “Commercial applicator” means ~~a certified~~ **an applicator who ~~applies or supervises~~ is licensed to apply or supervise the application of any general-use pesticide ~~for any restricted-use pesticide~~ for hire or for profit. ~~and does not qualify as a private applicator under NRS 555.2681.~~**

Sec. 10. NRS 555.2667 is hereby amended to read as follows:

555.2667 “Pest control” means ~~conducting as a function of the agency, in the case of a city, county, state or other governmental agency, or~~ publicly holding oneself out as being in the business of detecting, preventing, controlling or exterminating pests or otherwise engaging in, advertising or soliciting for:

1. The use of pesticides or mechanical devices for the extermination, control or prevention of infestations of pests.
2. The inspection of households or other structures and the submission of reports of inspection, estimates or bids, written or oral, for the inspection, extermination, control or prevention of wood-destroying pests.

Sec. 11. NRS 555.2681 is hereby amended to read as follows:

555.2681 “Private applicator” means ~~a certified~~ **an applicator who ~~uses or supervises the use~~ is certified to apply or supervise the application of any restricted-use pesticide for purposes of producing any agricultural commodity on property owned or rented by the ~~certified~~ applicator or the ~~certified~~ applicator’s employer or on the property of the ~~certified~~ applicator’s neighbors if applied without compensation other than trading of personal services between producers of agricultural commodities.**

Sec. 12. NRS 555.2683 is hereby amended to read as follows:

555.2683 “Restricted-use pesticide” means any pesticide, including any highly toxic pesticide, which:

1. The Director has found and determined, after a hearing, to be:
 - (a) Injurious to persons, pollinating insects, bees, animals, crops or land, other than pests or vegetation it is intended to prevent, destroy, control or mitigate; or
 - (b) Detrimental to:
 - (1) Vegetation, except weeds;
 - (2) Wildlife; or
 - (3) Public health and safety; or
2. Has been classified for restricted use ~~by or under the supervision of a certified~~ ~~commercial applicator, non-private applicator or private~~

~~applicator]~~ in accordance with the Federal ~~[Environmental Pesticide Control]~~
Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.

Sec. 13. NRS 555.2687 is hereby amended to read as follows:

555.2687 “Supervision” of the application of a restricted-use pesticide by ~~[a certified]~~ ***an authorized commercial applicator, certified non-private applicator or private*** applicator must be defined by regulation of the Director.

Sec. 14. NRS 555.273 is hereby amended to read as follows:

555.273 All state agencies, municipal corporations and public utilities or any other governmental agency ~~[and any government applicator is]~~ ***are*** subject to the provisions of NRS 555.2605 to 555.460, inclusive, and rules adopted thereunder concerning the application of restricted-use pesticides by any person.

Sec. 15. NRS 555.280 is hereby amended to read as follows:

555.280 ***1.*** A natural person, including, without limitation, any consultant, demonstrator, researcher or specialist, shall not engage, ***for hire or for profit***, in pest control or serve as an agent, operator, pilot, primary principal, location principal or principal for that purpose within this State at any time without a license as an applicator issued by the Director.

2. ***A natural person or business entity shall not operate, for hire or for profit, as a pest control business within this State at any time without a business license issued by the Director.***

Sec. 16. NRS 555.305 is hereby amended to read as follows:

555.305 ***1.*** The Director shall develop and implement a process by which a person with a criminal history may petition the Director to review the criminal history of the person to determine if the person’s criminal history will disqualify the person from obtaining ~~[a license as a government applicator pursuant to NRS 555.2772 or]~~ a business license or license as an applicator pursuant to NRS 555.290.

2. Not later than 90 days after a petition is submitted to the Director pursuant to subsection 1, the Director shall inform the person of the determination of the Director of whether the person’s criminal history will disqualify the person from obtaining a license. The Director is not bound by his or her determination of disqualification or qualification and may rescind such a determination at any time.

3. The Director may provide instructions to a person who receives a determination of disqualification to remedy the determination of disqualification. A person may resubmit a petition pursuant to subsection 1 not earlier than 6 months after receiving instructions pursuant to this subsection if the person remedies the determination of disqualification.

4. A person with a criminal history may petition the Director at any time, including, without limitation, before obtaining any education or paying any fee required to obtain a license from the Director.

5. A person may submit a new petition to the Director not earlier than 2 years after the final determination of the initial petition submitted to the Director.

6. The Director may impose a fee of up to \$50 upon the person to fund the administrative costs in complying with the provisions of this section. The Director may waive such fees or allow such fees to be covered by funds from a scholarship or grant.

7. The Director may post on the Internet website of the Department:

- (a) The requirements to obtain a license from the Director; and
- (b) A list of crimes, if any, that would disqualify a person from obtaining a license from the Director.

8. The Director may request the criminal history record of a person who petitions the Director for a determination pursuant to subsection 1. To the extent consistent with federal law, if the Director makes such a request of a person, the Director shall require the person to submit his or her criminal history record which includes a report from:

- (a) The Central Repository for Nevada Records of Criminal History; and
- (b) The Federal Bureau of Investigation.

9. A person who petitions the Director for a determination pursuant to subsection 1 shall not submit false or misleading information to the Director.

10. The Director of the State Department of Agriculture shall, on or before the 20th day of January, April, July and October, submit to the Director of the Legislative Counsel Bureau in an electronic format prescribed by the Director, a report that includes:

- (a) The number of petitions submitted to the Director of the State Department of Agriculture pursuant to subsection 1;
- (b) The number of determinations of disqualification made by the Director of the State Department of Agriculture pursuant to subsection 1;
- (c) The reasons for such determinations; and
- (d) Any other information that is requested by the Director of the Legislative Counsel Bureau or which the Director of the State Department of Agriculture determines would be helpful.

11. The Director of the Legislative Counsel Bureau shall transmit a compilation of the information received pursuant to subsection 10 to the Legislative Commission quarterly, unless otherwise directed by the Commission.

Sec. 17. NRS 555.310 is hereby amended to read as follows:

555.310 1. The Director shall collect from each person applying for examination or reexamination a testing fee established by regulation of the Director.

2. The Director shall, before the license or certificate is issued, collect from each person applying for a business license ~~for governmental agency certificate~~ or license as an applicator ~~for government applicator~~ a fee established by regulation of the Director. Any person employing primary principals, location principals, principals, operators or agents shall pay to the Director a fee established by regulation of the Director for each primary principal, location principal, principal, operator or agent licensed.

Sec. 18. NRS 555.330 is hereby amended to read as follows:

555.330 1. The Director shall require from each applicant for a business license proof of public liability and property damage insurance in an amount of:

(a) Except as otherwise provided in paragraph (b), not less than \$50,000.
(b) If the business license would authorize the application of pesticides by aircraft:

(1) Not less than \$100,000 for bodily injury to or death of one person in any one accident;

(2) Subject to the limit for one person, not less than \$300,000 for bodily injury to or death of two or more persons in any one accident; and

(3) Not less than \$100,000 for each occurrence of damage to property in any one accident.

↪ The Director may accept a liability insurance policy or surety bond in the proper amount.

2. The Director may require drift insurance for the use of pesticides or other materials declared hazardous or dangerous to humans, livestock, wildlife, crops or plantlife.

3. Any person injured by the breach of any such obligation is entitled to sue in his or her own name in any court of competent jurisdiction to recover the damages the person sustained by that breach, if each claim is made within 6 months after the alleged injury.

4. The Director on his or her own motion may, or upon receipt of a verified complaint of an interested person shall, investigate, as he or she deems necessary, any loss or damage resulting from the application of any pesticide by a licensed applicator, ~~licensed government~~ **commercial applicator, authorized commercial applicator**, licensed pest control operator, primary principal, location principal or principal. A verified complaint of loss or damage must be filed within 60 days after the time that the occurrence of the loss or damage becomes known except that, if a growing crop is alleged to have been damaged, the verified complaint must be filed before 50 percent of the crop has been harvested. A report of investigations resulting from a verified complaint must be furnished to the person who filed the complaint.

Sec. 19. NRS 555.350 is hereby amended to read as follows:

555.350 1. The Director may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may revoke, suspend or modify any business license or license issued to an applicator ~~for government applicator~~ under NRS 555.2605 to 555.460, inclusive, if the Director finds that:

(a) The licensee is no longer qualified;

(b) The licensee has engaged in fraudulent business practices in pest control;

(c) The licensee has made false or fraudulent claims through any media by misrepresenting the effect of materials or methods to be used;

(d) The licensee has applied known ineffective or improper materials;

- (e) The licensee has operated faulty or unsafe equipment;
- (f) The licensee has made any application of materials in a manner inconsistent with labeling or any restriction imposed by regulation of the Director, or otherwise in a faulty, careless or negligent manner;
- (g) The licensee has violated any of the provisions of NRS 555.2605 to 555.460, inclusive, or regulations adopted pursuant thereto;
- (h) The licensee has engaged in the business of pest control without having a licensed agent, operator, primary principal or principal in direct on-the-job supervision;
- (i) The licensee has aided or abetted a licensed or an unlicensed person to evade the provisions of NRS 555.2605 to 555.460, inclusive, combined or conspired with such a licensee or an unlicensed person to evade the provisions, or allowed the license to be used by an unlicensed person;
- (j) The licensee was intentionally guilty of fraud or deception in the procurement of the license;
- (k) The licensee was intentionally guilty of fraud, falsification or deception in the issuance of an inspection report on wood-destroying pests or other report or record required by regulation;
- (l) The licensee has been convicted of, or entered a plea of nolo contendere to, a category A or B felony or a category C, D or E felony if the conviction occurred or the plea was entered for the category C, D or E felony during the immediately preceding 10 years in any court of competent jurisdiction in the United States or any other country; or
- (m) The licensee has failed to provide adequate instruction or supervision to any unlicensed ~~employee~~ *applicator* working under the supervision of the licensee.

2. A business license and any license issued to a principal of the business as an applicator is suspended automatically, without action of the Director, if the proof of public liability and property damage or drift insurance filed pursuant to NRS 555.330 is cancelled, and the licenses remain suspended until the insurance is re-established.

3. If the licensee is a natural person, any licensee against whom the Director initiates disciplinary action pursuant to this section shall, within 30 days after receiving written notice of the disciplinary action from the Director and in accordance with any regulations adopted by the Department, submit to the Director any document or other information required by the Department to perform a background check of the licensee. Any document or other information submitted pursuant to this subsection must be accompanied by the appropriate fees, if any, specified in regulations adopted by the Department for performing the background check. A willful failure of a licensee to comply with the requirements of this subsection constitutes an additional ground for the revocation, suspension or modification of the license pursuant to this section.

Sec. 20. NRS 555.351 is hereby amended to read as follows:

555.351 **1.** Except as otherwise provided in ~~NRS 555.2775~~:

~~1. At~~ **subsection 3**, a person shall not use any restricted-use pesticide within this State at any time without a certificate issued by the Director except a person using any restricted-use pesticide under the supervision of ~~the certified~~ **an authorized commercial applicator who complies with the provisions of subsection 3, certified non-private applicator or private applicator.**

2. If the Director has adopted regulations requiring:

(a) A permit pursuant to NRS 586.403; or

(b) A special use permit pursuant to NRS 586.405,

↪ for a restricted-use pesticide, a person shall not use that pesticide without obtaining the required permit.

3. A person licensed as a commercial applicator and authorized to engage in pest control is authorized to use or supervise the use of a restricted-use pesticide without obtaining a certificate issued by the Director pursuant to NRS 555.357, if the person:

(a) Demonstrates that he or she satisfies the standards set forth in 40 C.F.R. § 171.103; and

(b) Otherwise complies with the provisions of this chapter and any regulations adopted pursuant to this chapter governing the use of restricted-use pesticides.

Sec. 21. NRS 555.355 is hereby amended to read as follows:

555.355 1. The Director may require the applicant to show, upon examination, that the applicant possesses adequate knowledge concerning the proper use and application of restricted-use pesticides and the dangers involved and precautions to be taken in connection with the application of those pesticides. ~~It, including, but not limited to, the following areas:~~

~~(a) Label and labeling comprehension.~~

~~(b) Environmental consequences of pesticide use and misuse.~~

~~(c) Pests.~~

~~(d) Pesticides.~~

~~(e) Equipment.~~

~~(f) Application techniques.~~

~~(g) Laws and regulations.~~

~~(h) Safety.~~

2. In addition, the Director may require the applicant to meet special qualifications of competency to meet the special needs of a given locality regarding the use or application of a specific restricted-use pesticide.

3. The Director shall require an applicant to demonstrate:

(a) If the applicant is applying to be certified as a non-private applicator, that he or she satisfies the standards set forth in 40 C.F.R. § 171.103.

(b) If the applicant is applying to be certified as a private applicator, that he or she satisfies the standards set forth in 40 C.F.R. § 171.105.

4. The Director shall collect from each person applying for an examination or reexamination, in connection with the issuance of a certificate, a testing fee

established by regulation of the State Board of Agriculture for any one examination period.

Sec. 22. NRS 555.359 is hereby amended to read as follows:

555.359 The Director may deny or suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may deny, revoke, suspend or modify any certificate issued under the provisions of NRS 555.351 to 555.357, inclusive, if the Director finds that the applicant or the ~~certified~~ **authorized commercial applicator, certified non-private applicator or private applicator**:

1. Is no longer qualified;
2. Has applied known ineffective or improper materials;
3. Has applied materials inconsistent with labeling or other restrictions imposed by the Director;
4. Has operated faulty or unsafe equipment;
5. Has made any application in a faulty, careless or negligent manner;
6. Aided or abetted an uncertified person to evade the provisions of NRS 555.351 to 555.357, inclusive, combined or conspired with an uncertified person to evade those provisions, or allowed one's certificate to be used by an uncertified person;
7. Was guilty of fraud or deception in the procurement of the certificate;
8. Has deliberately falsified any record or report;
9. Has violated any of the provisions of NRS 555.351 to 555.357, inclusive, 555.390 or any regulation adopted pursuant thereto; or
10. Has failed or neglected to give adequate instruction or direction to an uncertified person working under his or her supervision.

Sec. 23. NRS 555.390 is hereby amended to read as follows:

555.390 1. The Director may, by regulation, require any licensee **or non-private applicator** to maintain such records and furnish reports giving such information with respect to particular applications of pesticides and such other relevant information as the Director may deem necessary.

2. The Director may, by regulation, require any ~~certified~~ **authorized commercial applicator, certified non-private applicator or private applicator** to maintain such records and furnish reports giving such information with respect to application of restricted-use pesticides and such other relevant information as the Director may deem necessary.

Sec. 24. A person who, on the effective date of this act, is the holder of a valid license as a government applicator issued pursuant to NRS 555.2775, as that section existed before the effective date of this act, who is otherwise qualified to hold such a license on that date and who uses restricted-use pesticide in compliance with NRS 555.2775, as that section existed before the effective date of this act, shall be deemed to hold a certificate to use restricted-use pesticides issued pursuant to NRS 555.357 until his or her license as a government applicator expires or is revoked, whichever occurs first.

Sec. 25. NRS 555.2642, 555.2643, 555.2688, 555.2771, 555.2772, 555.2773, 555.2774 and 555.2775 are hereby repealed.

Sec. 26. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

555.2642 “Government applicator” defined.

555.2643 “Governmental agency certificate” defined.

555.2688 “Unlicensed employee” defined.

555.2771 Governmental agency certificate.

555.2772 License as government applicator.

555.2773 Application for governmental agency certificate or license as government applicator.

555.2774 Examination and qualifications of applicant for license as government applicator; testing fee established by regulation.

555.2775 Issuance and renewal of license as government applicator; fee; written explanation of denial.

Assemblyman Watts moved the adoption of the amendment.

Remarks by Assemblyman Watts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 40.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 68.

AN ACT relating to storage tanks; revising provisions governing responsibility for discharges from certain storage tanks; revising the requirements relating to the eligibility of a storage tank for the coverage of certain costs from the Fund for Cleaning Up Discharges of Petroleum; **authorizing the distribution of additional amounts from the Fund to cover the cost for cleaning up certain discharges;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law: (1) the ~~State~~ Department of ~~Conservation and Natural Resources~~ **Motor Vehicles** is required to impose fees on the importation of certain fuels into this State; and (2) the Division of Environmental Protection of the ~~State~~ Department of **Conservation and Natural Resources** is required to impose an annual fee on certain operators of storage tanks for the registration of storage tanks used to store petroleum in this State. (NRS 445C.330, 445C.340) The money collected from such fees is required to be deposited into the Fund for Cleaning Up Discharges of Petroleum, and used, in part, to: (1) reimburse the Division for the costs of cleaning up discharges involving petroleum, heating oil and certain petrochemicals from storage tanks and mobile tanks; and (2) provide financial assistance to operators of petroleum storage tanks for certain costs related to compliance with federal

laws and regulations relating to preventing discharge of petroleum from a storage tank. (NRS 445C.310, 445C.320, 445C.360-445C.380) The Board to Review Claims is required by existing law to adopt regulations relating to the Fund. (NRS 445C.310)

For the purposes of this existing law, **sections 1 and 2** of this bill expand the definitions of “operator” and “storage tank.” (NRS 445C.250, 445C.280) **Section 1 ~~of this bill~~** expands the definition of “operator” from a person who owns, controls, or is responsible for the operation of a storage tank to a person who: (1) owns, controls or is responsible for the operation and management of a storage tank or a discharge from a storage tank; (2) was previously in charge of a storage tank immediately before the use of the storage tank was discontinued; (3) owns the property on which the storage tank is or was previously located; or (4) owns property on which a discharge from a storage tank has occurred and is responsible for the management and cleanup of the discharge. **Section 3** of this bill makes a conforming change by removing a conflicting definition of “operator.” **Section 2 ~~of this bill~~** revises the definition of “storage tank” to include the distribution piping associated with the tank. **Sections 4-8** of this bill make conforming changes by replacing certain references to a “tank” with “storage tank.”

Federal regulations set forth tank tightness testing standards for storage tanks. (40 C.F.R. § 280.43(c)) Unless a tank has been tested for tightness according to those federal regulations since July 1, 1988, existing law requires each operator who is required, or who chooses, to register a tank to test the tank pursuant to those federal regulations before the tank is eligible for coverage of certain costs from the Fund. (NRS 445C.360) Federal regulations additionally set forth line tightness testing standards. (40 C.F.R. § 280.44(b)) **Section 4 ~~of this bill~~** instead requires that, before a storage tank is eligible for the coverage of certain costs from the Fund, the operator must, unless the storage tank has been tested for tank and line tightness according to both federal regulations within the previous 6 months, demonstrate that: (1) the storage tank is being monitored for a discharge; and (2) a discharge has not occurred.

Existing law allocates the costs of payment relating to the cleanup of discharges of petroleum from storage tanks between the Fund and the operator of the storage tank. (NRS 445C.370, 445C.380) **Existing law limits to \$1,900,000 the total amount that may be paid from the Fund in any 1 fiscal year to certain operators. (NRS 445C.380) Section 6 of this bill increases this amount to \$1,950,000.**

Existing law provides that any further cost for cleaning up or for damages which is in excess of the amount paid to an operator from the Fund must be paid by the operator. (NRS 445C.380) Section 6 provides that any further cost for damages which is in excess of the amounts paid to an operator from the Fund must be paid by the operator. Section 6 additionally provides that any further cost for cleaning up which is in excess of the amount paid to an operator must be paid by the operator

unless: (1) the Division requires additional cleanup to occur to comply with certain requirements; and (2) the Board determines that certain conditions are met, including that the discharge cannot be cleaned up within the amount already paid to the operator from the Fund. Section 6 provides that if these conditions are met and the amount paid to the operator from the Fund has been exhausted, the Board may approve the operator to receive an additional \$1,000,000 from the Fund for cleaning up each storage tank. Section 6 authorizes the Board to approve additional \$1,000,000 allotments for cleaning up each storage tank that are in addition to the initial additional \$1,000,000 allotment if: (1) the conditions continue to be met; and (2) the initial amount and the additional \$1,000,000 allotment have been exhausted.

Existing law prescribes a specific allocation with respect to the ~~owner of~~ **operator which is** a small business who is responsible for a discharge. (NRS 445C.380) **Section 6** ~~of this bill~~ removes the definition of “small business” in existing law and instead requires the Board to Review Claims to define “small business” by regulation. **Sections 4 and 8** ~~of this bill~~ remove references to inapplicable existing law relating to the allocation of costs for discharges.

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

Section 1. NRS 445C.250 is hereby amended to read as follows:
445C.250 “Operator” means a person who ~~owns~~:

1. *Owns, controls or is responsible for the operation and management of a storage tank ~~+~~ or a discharge from a storage tank;*
2. *Previously owned, controlled or was responsible for the operation and management of a storage tank immediately before the use of the storage tank was discontinued;*
3. *Owns the property on which a storage tank is operated and managed, or was previously operated and managed if the use of the storage tank was discontinued; or*
4. *Owns property on which a discharge from a storage tank has occurred and is responsible for the management and cleanup of the discharge.*

Sec. 2. NRS 445C.280 is hereby amended to read as follows:

445C.280 “Storage tank” means any tank , **and the distribution piping associated with the tank**, used to store petroleum, except petroleum for use in a chemical process.

Sec. 3. NRS 445C.320 is hereby amended to read as follows:

445C.320 Notwithstanding any provision of NRS 445C.150 to 445C.410, inclusive, to the contrary, and except as otherwise provided in this section:

1. The Division may expend not more than \$2,000,000 from the Fund per fiscal year as reimbursement for necessary costs incurred by the Division in the response to and cleanup of discharges in the State, including discharges from a storage tank and discharges from a mobile tank that occur during the

transportation of petroleum or a petrochemical on roads and highways. The Interim Finance Committee may approve the expenditure of more than \$2,000,000 from the Fund in a fiscal year for the purposes described in this subsection. If a discharge also involves another hazardous material, the Division may expend money pursuant to this section in the cleanup of the discharge and the other hazardous material. The Division shall not expend money from the Fund pursuant to this section to clean up discharges from pipelines.

2. Except as otherwise provided in this subsection, money from the Fund expended by the Division pursuant to this section must be used to augment, and must not be used to replace or supplant, any money available from other sources for the cleanup of discharges, including, without limitation, reimbursements by operators required to be made to the Division pursuant to NRS 445C.340 and 445C.360. If no money is available from those other sources, the Division may expend money from the Fund pursuant to this section to reimburse the Division for any costs specified in subsection 1.

3. If the Division expends money pursuant to this section to clean up a discharge involving:

(a) Petroleum, the operator of the tank shall reimburse the Division for the operator's share of the costs for cleaning up the discharge.

(b) A petrochemical, the person who is responsible for the discharge shall reimburse the Division for the person's share of the costs for cleaning up the discharge.

↪ The Division shall, upon being reimbursed pursuant to this subsection, deposit that money in the Fund.

4. As used in this section:

(a) "Discharge" means, unless authorized by state or federal law, any:

(1) Release of a petrochemical into water or soil; or

(2) Release, leaking or spilling of petroleum or a petrochemical from a tank into water or soil.

(b) ~~"Operator" means a person who owns, controls or is responsible for the operation of a tank.~~

~~(c)~~ "Petrochemical" means a chemical derived from petroleum or a petroleum feedstock, including, without limitation, perchloroethylene and any degradation product of perchloroethylene.

~~(d)~~ (c) "Tank" means a storage tank or a mobile tank used to transport petroleum or a petrochemical received for sale or use in this State.

Sec. 4. NRS 445C.360 is hereby amended to read as follows:

445C.360 1. The operator of every storage tank, and every person who for compensation puts petroleum into a storage tank, shall report to the Division every discharge from that *storage* tank of which the operator or other person is aware or has reason to believe has occurred. The Division shall undertake or contract for cleaning up the discharge unless the operator or another person is already acting properly to clean it up. If the Division cleans up the discharge, the operator shall reimburse the Division for the operator's

share of the costs. If, in cleaning up the discharge, the Division expends money from the Fund in accordance with NRS 445C.320, the Division shall, upon being reimbursed by the operator of the storage tank pursuant to this subsection, deposit that money in the Fund.

2. ~~Each~~ ***Before a storage tank is eligible for the coverage provided by NRS 445C.380, each*** operator who is required ***pursuant to subsection 1 of NRS 445C.340*** or who chooses to register a ***storage*** tank must, unless the ***storage*** tank has been tested for tightness under the federal standards embodied in 40 C.F.R. ~~§ 280.43c since July 1, 1988, test the tank pursuant to those standards before it is eligible for the coverage provided by NRS 445C.370 and 445C.380.~~ ***§§ 280.43(c) and 280.44(b) within the previous 6 months, demonstrate that:***

(a) The storage tank is being monitored for a discharge; and

(b) A discharge has not occurred.

Sec. 5. NRS 445C.370 is hereby amended to read as follows:

445C.370 The costs resulting from a discharge from a storage tank which has a capacity of 1,100 gallons or less and is used to store heating oil for consumption on the same premises where the oil is stored must be paid as follows, to the extent applicable:

1. The first \$250 for cleaning up and the first \$250 of liability for damages to a person other than this State or the operator of the ***storage*** tank, or both amounts, by the operator.

2. If necessary to protect the environment or the public health and safety, the next \$250,000 for cleaning up and the next \$250,000 for damages to a person other than this State or the operator of the ***storage*** tank, or both amounts, from the Fund. These limits apply to any one discharge and to the total for discharges from storage tanks controlled by any one operator in any fiscal year. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.

3. Any further cost for cleaning up or for damages, by the operator.

Sec. 6. NRS 445C.380 is hereby amended to read as follows:

445C.380 If the costs resulting from a discharge from any other storage tank exceed \$5,000, the costs must be paid as follows, to the extent applicable:

1. By an operator which is an agency, department, division or political subdivision of the State, 10 percent or \$10,000, whichever is less, of the first \$1,000,000 for cleaning up each ***storage*** tank and of the first \$1,000,000 of liability for damages from each ***storage*** tank to any person other than this State or the operator of the ***storage*** tank, or both amounts. The balance of the first \$1,000,000 for cleaning up each ***storage*** tank or for damages from each ***storage*** tank must be paid from the Fund, but the total amount paid from the Fund pursuant to this subsection in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed \$1,980,000 for cleaning up and \$1,980,000 for damages.

2. By an operator which is a small business, ~~10~~ 5 percent of the first \$1,000,000 for cleaning up each *storage* tank and of the first \$1,000,000 of liability for damages from each *storage* tank to a person other than this State or the operator of the *storage* tank, or both amounts. The total amount paid by an operator pursuant to this subsection must not exceed \$50,000 for cleaning up and \$50,000 for damages regardless of the number of storage tanks involved. The balance of the first \$1,000,000 for cleaning up each *storage* tank or for damages from each *storage* tank must be paid from the Fund, but the total amount paid from the Fund pursuant to this subsection in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed ~~(\$1,900,000)~~ \$1,950,000 for cleaning up and ~~(\$1,900,000)~~ \$1,950,000 for damages. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.

3. By all other operators:

(a) Ten percent of the first \$1,000,000 for cleaning up each *storage* tank and of the first \$1,000,000 of liability for damages from each *storage* tank to a person other than this State or the operator of the *storage* tank, or both amounts.

(b) Ninety percent of the first \$1,000,000 for cleaning up each *storage* tank ~~for~~ and of the first \$1,000,000 of liability for damages from each *storage* tank must be paid from the Fund.

↪ The total amount paid from the Fund pursuant to paragraph (b) in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed \$1,800,000 for cleaning up and \$1,800,000 for damages. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.

4. *Any further cost for damages which is in excess of the amounts paid pursuant to subsections 1, 2 and 3 must be paid by the operator.*

5. Any further cost for cleaning up ~~for~~ for damages which is in excess of the amounts paid pursuant to subsections 1, 2 and 3 must be paid by the operator.

~~5.~~ , unless:

(a) The Division requires additional cleanup to occur to comply with any requirements of the Division concerning the cleanup of discharged petroleum; and

(b) The Board determines that:

(1) The discharge cannot be cleaned up within the amount paid pursuant to subsection 1, 2 or 3, as applicable;

(2) The operator is in compliance with any requirements of the Division concerning the cleanup of discharged petroleum;

(3) The operator has obtained approval from the Division to develop a plan and a schedule to clean up the discharged petroleum;

(4) Except as otherwise provided in subparagraph (5), the operator is not liable pursuant to subsection 1 of NRS 445C.390;

(5) If the operator is liable pursuant to subsection 1 of NRS 445C.390, the operator has complied with subsection 2 of NRS 445C.390;

(6) The facility where the storage tank is located has complied with the applicable provisions of NRS 459.800 to 459.856, inclusive, for the immediately preceding 3 years; and

(7) The operator has not received money from a third-party for damages before July 1, 2021.

6. The Board may approve the operator to receive an additional \$1,000,000 from the Fund for cleaning up each storage tank if:

(a) The Division requires additional cleanup pursuant to paragraph (a) of subsection 5;

(b) The Board determines that the conditions in paragraph (b) of subsection 5 are met; and

(c) The amounts paid pursuant to subsection 1, 2 or 3, as applicable, for cleaning up each storage tank have been exhausted.

7. The Board may approve additional \$1,000,000 allotments for cleaning up each storage tank in addition to the amount paid pursuant to subsection 6 if:

(a) The conditions in paragraphs (a) and (b) of subsection 6 are met; and

(b) The amounts paid pursuant to subsection 6 and this subsection for cleaning up each storage tank have been exhausted.

8. A political subdivision of the State that receives money from the Fund pursuant to subsection 1 to pay for the costs of cleaning up shall hold one public hearing upon initiation of the cleanup and one public hearing every 3 months thereafter until the cleanup is completed to ensure that the cleanup complies with any requirements of the Division concerning the cost-effectiveness of cleaning up. The costs incurred by the political subdivision for the hearing must not be attributed to the political subdivision as part of the costs paid by the political subdivision pursuant to subsection 1.

~~{6.} 9.~~ For the purposes of this section, ~~a small business is a business which receives less than \$500,000 in gross annual receipts from the site where the tank is located.~~ **the Board shall define by regulation “small business.”**

Sec. 7. NRS 445C.390 is hereby amended to read as follows:

445C.390 1. Any person who, through willful or wanton misconduct, through gross negligence or through violation of any applicable statute or regulation, including specifically any state or federal standard pertaining to the preparation or maintenance of sites for storage tanks, proximately causes a discharge is liable to the Division for any cost in cleaning up the discharge or paying for it to be cleaned up.

2. If a discharge occurs, the site of the **storage** tank and any other premises affected by the discharge must be brought into compliance with any applicable standard as described in subsection 1.

Sec. 8. NRS 445C.410 is hereby amended to read as follows:

445C.410 1. Except as otherwise specifically provided in NRS 445C.320, the provisions of NRS 445C.340 to 445C.400, inclusive, do not apply to any **storage** tank which:

(a) Contains petroleum being transported through this State in interstate commerce, but do apply to a **storage** tank being used to store petroleum received for sale or use in this State;

(b) Contains fuel for jet or turbine-powered aircraft, or is above ground and has a capacity of 30,000 gallons or less, unless in either case the operator complies with subsection 2; or

(c) Is above ground and has a capacity of more than 30,000 gallons.

2. The operator of a tank exempted by paragraph (b) of subsection 1 may obtain the coverage provided by NRS ~~445C.370 and~~ 445C.380 by applying to the Board, paying the fee set pursuant to NRS 445C.340 for its registration, and, if the tank is used to store fuel for jet or turbine-powered aircraft, reporting monthly the number of gallons of fuel put into the tank and paying the fee required by NRS 445C.330. Coverage pursuant to this subsection begins 6 months after the tank is registered and the required fee first paid.

Sec. 9. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 8, inclusive, of this act become effective:

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

(b) On July 1, 2021, for all other purposes.

Assemblyman Watts moved the adoption of the amendment.

Remarks by Assemblyman Watts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 412.

Bill read second time and ordered to third reading.

Assembly Bill No. 415.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Carlton moved that upon return from the printer, Assembly Bill No. 40 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Carlton moved that Assembly Bill No. 415 be taken from the General File and rereferred to the to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 2.

Bill read third time.

Remarks by Assemblyman Matthews.

ASSEMBLYMAN MATTHEWS:

Assembly Bill 2 allows a gubernatorial appointee to serve on up to three boards, commissions, or similar bodies. This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 2:

YEAS—42.

NAYS—None.

Assembly Bill No. 2 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 14.

Bill read third time.

Remarks by Assemblyman Ellison.

ASSEMBLYMAN ELLISON:

Assembly Bill 14 changes the required frequency of meetings of the Nevada Resilience Advisory Committee, the Nevada Tribal Emergency Coordinating Council, and the State Disaster Identification Coordination Committee. The bill also removes the requirement that the State Disaster Identification Coordination Committee or a subcommittee thereof perform certain duties upon activation. Finally, the bill makes certain reports submitted by a provider of health care to the State Disaster Identification Coordination Committee discretionary during a state of emergency, declaration of disaster, a public health emergency, or other health event. This bill effective upon passage and approval.

Roll call on Assembly Bill No. 14:

YEAS—42.

NAYS—None.

Assembly Bill No. 14 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 17.

Bill read third time.

Remarks by Assemblywomen González and Kasama.

ASSEMBLYWOMAN GONZÁLEZ:

Assembly Bill 17 eliminates the distinction between an honorable discharge and a dishonorable discharge in provisions governing parole and probation. The bill also eliminates the distinction between an honorable discharge and a dishonorable discharge for purposes of collecting and reporting certain information to the Nevada Sentencing Commission.

ASSEMBLYWOMAN KASAMA:

I rise in opposition to AB 17. This bill eliminates the distinction between an honorable discharge and a dishonorable discharge from probation and parole. I, and criminal justice organizations, oppose this bill because it removes the layer of accountability for the person under supervision. The distinction between an honorable and a dishonorable discharge motivates good behavior and successful readjustment back to becoming a productive and respectful member of

society. Removing this distinction takes away one of the incentives in the criminal justice system for rehabilitation and for this reason, I urge my colleagues to vote no on AB 17.

Roll call on Assembly Bill No. 17:

YEAS—26.

NAYS—Black, Dickman, Ellison, Hafen, Hansen, Hardy, Kasama, Krasner, Leavitt, Matthews, McArthur, O'Neill, Roberts, Titus, Tolles, Wheeler—16.

Assembly Bill No. 17 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 21.

Bill read third time.

Remarks by Assemblywoman Brown-May.

ASSEMBLYWOMAN BROWN-MAY:

Assembly Bill 21 authorizes a person for whom a fictitious address has been issued by the Division of Child and Family Services of the Department of Health and Human Services to request a county assessor or county recorder to maintain the personal information of the person contained in their records in a confidential manner without having to obtain a court order. The bill also prohibits the Secretary of State, a county, or a city clerk from making personal contact information available.

Roll call on Assembly Bill No. 21:

YEAS—41.

NAYS—Ellison.

Assembly Bill No. 21 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 23.

Bill read third time.

Remarks by Assemblywoman Bilbray-Axelrod.

ASSEMBLYWOMAN BILBRAY-AXELROD:

Assembly Bill 23 revises the procedure for the commitment of certain criminal defendants who are found to be incompetent by the court. The bill requires that the Division of Public and Behavioral Health of the Department of Health and Human Services complete a comprehensive risk assessment within 40 calendar days after a request for the assessment is received.

Roll call on Assembly Bill No. 23:

YEAS—42.

NAYS—None.

Assembly Bill No. 23 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 25.

Bill read third time.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Assembly Bill 25 authorizes a forensic facility supervising a person on conditional release to take a person into protective custody and transport him or her to a forensic facility if there is

probable cause to believe that the person violated a condition of release and is a danger to himself or herself or others. A forensic facility may also request that a law enforcement agency take a person into protective custody and transport him or her to the forensic facility. Additionally, a court must hold a hearing not later than three days after the person is taken into custody to determine whether to continue, modify, or terminate the conditional release of the person. The hearing may be continued not more than ten days upon agreement by the counsel for the person and the prosecuting attorney.

Roll call on Assembly Bill No. 25:

YEAS—42.

NAYS—None.

Assembly Bill No. 25 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 28.

Bill read third time.

Remarks by Assemblywoman Considine.

ASSEMBLYWOMAN CONSIDINE:

Assembly Bill 28 imposes an inverse preference on any bidder for a state purchasing contract with a principal place of business in another state if, for a similar contract, the other state grants a preference to a person with a principal place of business in that state and denies that preference to a person with a principal place of business in the state of Nevada.

Roll call on Assembly Bill No. 28:

YEAS—40.

NAYS—Black, Matthews—2.

Assembly Bill No. 28 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 32.

Bill read third time.

Remarks by Assemblyman C.H. Miller.

ASSEMBLYMAN C.H. MILLER:

Assembly Bill 32 creates a new process for filing a complaint for expedited relief in justice court related to the towing or immobilization of a motor vehicle. If the complaint filed does not meet certain criteria, it must be dismissed by the court without prejudice. This dismissal does not affect the right of the vehicle owner to pursue civil damages. The court will determine if the vehicle was lawfully or unlawfully towed or immobilized and will enter an order declaring who is responsible for certain costs. Upon the presentation of a certified copy of the court order, the person storing the vehicle or the person who immobilized the vehicle must release the vehicle to the owner immediately. The measure also requires the operator of any facility or location where towed vehicles are stored to mail written notice, within 24 hours after the towing, to the registered owner of the towed vehicle.

Roll call on Assembly Bill No. 32:

YEAS—42.

NAYS—None.

Assembly Bill No. 32 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 60.

Bill read third time.

Remarks by Assemblywoman Summers-Armstrong.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:

Assembly Bill 60 provides that a provision of a contract or settlement agreement is void and unenforceable if the provision prohibits or restricts the party to the contract or settlement agreement from testifying as a witness at a judicial or administrative proceeding concerning another party to the contract or settlement agreement and his or her commission of a criminal offense; an act of sexual harassment; an act of discrimination based on race, religion, color, national origin, sexual orientation, gender identity or expression, ancestry, familial status, age, or sex by an employer or a landlord; or an act of retaliation for reporting such discrimination. Lastly, these provisions do not apply to a settlement agreement that results from successful mediation or conciliation by the Nevada Equal Rights Commission.

Roll call on Assembly Bill No. 60:

YEAS—42.

NAYS—None.

Assembly Bill No. 60 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 63.

Bill read third time.

Remarks by Assemblyman Matthews.

ASSEMBLYMAN MATTHEWS:

Assembly Bill 63 authorizes a local government to use money from its fund established to stabilize the operation of government and mitigate the effects of a natural disaster to also mitigate the effects of a declared emergency. This bill is effective on October 1, 2021.

Roll call on Assembly Bill No. 63:

YEAS—42.

NAYS—None.

Assembly Bill No. 63 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 64.

Bill read third time.

Remarks by Assemblywoman Krasner.

ASSEMBLYWOMAN KRASNER:

Assembly Bill 64 grants the Attorney General concurrent jurisdiction to prosecute a person for committing the crime of facilitating sex trafficking, engaging in prostitution, or solicitation for prostitution. Additionally, the crime of soliciting a child for prostitution is revised. A person is guilty of such a crime if the person solicits a child, a peace officer who is posing as a child, or a person who is assisting an investigation on behalf of peace officer posing as a child.

Roll call on Assembly Bill No. 64:

YEAS—42.

NAYS—None.

Assembly Bill No. 64 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 75.

Bill read third time.

Remarks by Assemblywoman Titus.

ASSEMBLYWOMAN TITUS:

Assembly Bill 75 requires the State Sealer of Consumer Equitability to adopt regulations establishing field reference standards to be used in the installation, adjustment, repair, or calibration of devices for weights and measures and weighing and measuring devices, and transfer standards to be used as temporary measurement references to check the accuracy of commercial weighing and measuring equipment. The bill also creates a rebuttable presumption concerning the presence of a field reference standard and makes various technical changes concerning weights and measures. This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 75:

YEAS—42.

NAYS—None.

Assembly Bill No. 75 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 76.

Bill read third time.

Remarks by Assemblywoman Dickman.

ASSEMBLYWOMAN DICKMAN:

Assembly Bill 76 authorizes the Director of the Department of Veterans Services to establish and operate programs to provide adult day health care services to veterans. This service is limited to the extent that federal funding is available. The bill also eliminates certain obsolete requirements governing the location of veterans' homes. This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 76:

YEAS—42.

NAYS—None.

Assembly Bill No. 76 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 89.

Bill read third time.

Remarks by Assemblywoman Titus.

ASSEMBLYWOMAN TITUS:

Assembly Bill 89 authorizes the Board of Wildlife Commissioners to adopt regulations establishing a program that allows a person to transfer his/her big game tag to a qualified organization for use by a person who is 16 years of age or younger and who is otherwise eligible to hunt or who has a disability or life-threatening medical condition. This bill also authorizes the Commission to establish by regulation a process by which a family member of a deceased big game hunter may transfer the tag of the deceased big game hunter to another person. This bill is effective upon passage.

Roll call on Assembly Bill No. 89:

YEAS—42.

NAYS—None.

Assembly Bill No. 89 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 100.

Bill read third time.

Remarks by Assemblywoman Black.

ASSEMBLYWOMAN BLACK:

Assembly Bill 100 authorizes the State Forester Firewarden to enter into a cooperative agreement with federal, state, and local agencies for the purpose of creating a fire board of directors to ensure that agencies in this state work collaboratively on fire suppression activities. The bill also creates the Wildland Fire Protection Program in the Division of Forestry of the State Department of Conservation and Natural Resources and authorizes the State Forester Firewarden to enter into cooperative agreements with fire protection districts and boards of county commissioners to participate in the Wildland Fire Protection Program. Finally, the bill authorizes the Commissioner of Insurance to create a program for insurers to provide incentives to promote and encourage property owners to take measures to mitigate the risk of property loss or damage caused by wildfire. This bill is effective on July 1, 2021.

Roll call on Assembly Bill No. 100:

YEAS—42.

NAYS—None.

Assembly Bill No. 100 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 107.

Bill read third time.

Remarks by Assemblyman Yeager.

ASSEMBLYMAN YEAGER:

Assembly Bill 107 revises the procedure for determining whether a person may prosecute or defend a civil action without paying costs. The person must file an application, which must include an unsworn declaration, to proceed as an indigent litigant or submit to the court a statement of legal representation. Based on the review of the person's application, the court may allow the person to commence or defend an action without costs and file or issue any necessary writ, process, pleading, or paper without charge. Lastly, criteria are established for the court to use in determining whether to grant such an application.

Roll call on Assembly Bill No. 107:

YEAS—36.

NAYS—Black, Dickman, Ellison, Matthews, McArthur, Wheeler—6.

Assembly Bill No. 107 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 111.

Bill read third time.

Remarks by Assemblymen Considine and Roberts.

ASSEMBLYWOMAN CONSIDINE:

Assembly Bill 111 adds two members to the Peace Officers' Standards and Training Commission and requires the Majority Leader of the Senate and the Speaker of the Assembly to each appoint one member who is not a peace officer and who has demonstrated experience in one or more of the following areas: implicit and explicit bias; cultural competency; mental health as it relates to policing and law enforcement; and experience working with certain vulnerable populations. Finally, the bill requires the Governor, the Majority Leader of the Senate, and the Speaker of the Assembly to consider the racial, gender, and ethnic diversity of the Commission when making their appointments.

ASSEMBLYMAN ROBERTS:

I rise in support of AB 111. This bill will have a long lasting, positive impact on policing in Nevada. By adding two additional citizen stakeholders with varied backgrounds, the POST Commission will be better positioned to guide the training needs of our police officers. Thank you for allowing me to be added as a co-sponsor, and I encourage my colleagues to vote yes on AB 111.

Roll call on Assembly Bill No. 111:

YEAS—42.

NAYS—None.

Assembly Bill No. 111 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 138.

Bill read third time.

Remarks by Assemblywomen Martinez and Hansen.

ASSEMBLYWOMAN MARTINEZ:

Assembly Bill 138 removes provisions from statutes that make a person who has been convicted of a felony drug offense ineligible for assistance through the Temporary Assistance for Needy Families (TANF) program or the Supplemental Nutrition Assistance Program (SNAP) in this state, thereby authorizing such a convicted person to receive TANF and SNAP benefits. This bill is effective on July 1, 2021.

ASSEMBLYWOMAN HANSEN:

I rise in opposition to AB 138. This bill with its conceptual amendment causes me concern. The conceptual amendment says regardless of whether the person demonstrates he or she is participating in a successfully completed treatment program or has used or distributed controlled substances since beginning any such treatment program. Those convicted for distributing drugs should complete a substance abuse diversion program before they are subsidized by the taxpayers. I am opposed to this bill and will be voting no.

Roll call on Assembly Bill No. 138:

YEAS—26.

NAYS—Black, Dickman, Ellison, Hafen, Hansen, Hardy, Kasama, Krasner, Leavitt, Matthews, McArthur, O'Neill, Roberts, Titus, Tolles, Wheeler—16.

Assembly Bill No. 138 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 157.

Bill read third time.

Remarks by Assemblyman C.H. Miller.

ASSEMBLYMAN C.H. MILLER:

Assembly Bill 157 authorizes a person who is the victim of certain discriminatory conduct relating to an incident involving a peace officer to bring a civil action for damages. Specifically, a civil action may be brought if another person—without reasonable cause and because of the actual or perceived race, color, religion, national origin, physical or mental disability, sexual orientation, or gender identity or expression of the person—knowingly causes a peace officer to respond to a location with the intent to infringe on the constitutional rights of the person; cause the person to feel harassed, humiliated, or embarrassed; cause the person to be removed from a location where he or she is lawfully located; or damage the reputation or economic interests of the person. This bill is effective on October 1, 2021.

Roll call on Assembly Bill No. 157:

YEAS—36.

NAYS—Black, Dickman, Ellison, Matthews, McArthur, Titus—6.

Assembly Bill No. 157 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 171.

Bill read third time.

Remarks by Assemblymen Watts and Hansen.

ASSEMBLYMAN WATTS:

Assembly Bill 171 declares that it is the policy of the state of Nevada to protect the Spring Valley population of Rocky Mountain junipers, known as swamp cedars, that occur within the Bahsawahbee Traditional Cultural Property in White Pine County. Due to their cultural significance to indigenous peoples, this bill makes it unlawful for any swamp cedar within that property to willfully or negligently be cut, destroyed, mutilated, or removed without first obtaining a special permit from the State Forester Firewarden.

ASSEMBLYWOMAN HANSEN:

I rise in opposition to AB 171. I fully support the intent of this bill in that the swamp cedars are an important Native American cultural resource. I am concerned, however, with the precedent it is setting in that there are countless important natural resources in this great state, many on federal lands. This bill, with its amendment, directs the State Forester Firewarden to oversee programs that will protect the Rocky Mountain junipers, also known as swamp cedars, a significant cultural resource. The burden to require the State Firewarden to issue a special permit for the taking of every important botanical resource would be too great. Therefore, I will be voting no.

Roll call on Assembly Bill No. 171:

YEAS—29.

NAYS—Black, Dickman, Ellison, Hafen, Hansen, Hardy, Kasama, Leavitt, Matthews, McArthur, O'Neill, Titus, Wheeler—13.

Assembly Bill No. 171 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 236.

Bill read third time.

Remarks by Assemblywoman Brown-May.

ASSEMBLYWOMAN BROWN-MAY:

Assembly Bill 236 revises the eligibility qualifications for the Office of Attorney General by increasing the minimum age required from 25 years to 30 years at the time of an election;

increasing the residency requirement from two years to three years; and adding a requirement that the person be a member of the State Bar of Nevada in good standing.

Roll call on Assembly Bill No. 236:

YEAS—31.

NAYS—Black, Dickman, Ellison, Hafen, Hansen, Krasner, Matthews, McArthur, O'Neill, Titus, Wheeler—11.

Assembly Bill No. 236 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 258.

Bill read third time.

Remarks by Assemblywoman Torres.

ASSEMBLYWOMAN TORRES:

Assembly Bill 258 requires the trustees of a consolidated library district to appoint an executive director, consistent with the statutorily prescribed duties of the trustees of a consolidated library district. The bill also requires the trustees to establish the educational qualifications of the executive director, which may include, without limitation, holding a master's degree in library and information science, and appoint, evaluate the performance of, and if necessary, dismiss an internal auditor.

Roll call on Assembly Bill No. 258:

YEAS—41.

NAYS—Carlton.

Assembly Bill No. 258 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 302.

Bill read third time.

Remarks by Assemblywomen Summers-Armstrong and Titus.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:

Assembly Bill 302 authorizes the Nevada Commission on Minority Affairs of the Department of Business and Industry to request the drafting of up to two legislative measures for each regular session of the Legislature that relate to matters within its scope of authority. The bill is effective on October 1, 2021.

ASSEMBLYWOMAN TITUS:

Although I absolutely support them having one bill that they could introduce, sticking with my standard of requesting that this body reduce the overall number of bills, I cannot support two bills.

Roll call on Assembly Bill No. 302:

YEAS—35.

NAYS—Black, Ellison, Hansen, McArthur, O'Neill, Titus, Wheeler—7.

Assembly Bill No. 302 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 304.

Bill read third time.

Remarks by Assemblywoman Thomas.

ASSEMBLYWOMAN THOMAS:

Assembly Bill 304 requires the Peace Officers' Standards and Training Commission to expand its regulations requiring all peace officers to annually complete not less than 12 hours of continuing education to address crisis intervention as part of topics related to mental health.

Roll call on Assembly Bill No. 304:

YEAS—41.

NAYS—Ellison.

Assembly Bill No. 304 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 308.

Bill read third time.

Remarks by Assemblywomen Carlton, Kasama, and Jauregui.

ASSEMBLYWOMAN CARLTON:

Assembly Bill 308 makes a technical change to revise the term “security” to “security deposit” as that term is used in residential rental agreements. The measure prohibits a landlord from charging a late fee as long as the rent is paid within three calendar days of the due date. The bill extends from 45 to 60 the number of days’ notice a landlord must provide of a rent increase. For periodic tenancies of less than one month, the bill extends from 15 to 30 the number of days’ notice required.

ASSEMBLYWOMAN KASAMA:

Assembly Bill 308 makes a technical change to revise the term “security” to “security deposit” as that term is used in residential rental agreements. The measure prohibits a landlord from charging a late fee as long as the rent is paid within three calendar days of the due date. The bill extends from 45 to 60 the number of days’ notice a landlord must provide of a rent increase. For periodic tenancies of less than one month, the bill extends from 15 to 30 the number of days’ notice required.

ASSEMBLYWOMAN JAUREGUI:

Today I rise in support of Assembly Bill 308. This bill attempts to further balance the interests of tenants and landlords. Certainly, we are no strangers to the plight of tenants and property owners today. Even before the COVID-19 pandemic, the influx of new residents resulting in increased property values caused a shortage of affordable housing throughout the state. Housing continues to be a large percentage of a family’s monthly expenses. As Nevada continues to see slower economic recovery as compared to other states across the country, it is critical that we find ways to help tenants adequately prepare for the unexpected while not placing an excessive burden on landlords. AB 308 does just that. I urge my colleagues to support Assembly Bill 308.

Roll call on Assembly Bill No. 308:

YEAS—34.

NAYS—Black, Dickman, Ellison, Hafen, Matthews, McArthur, Titus, Wheeler—8.

Assembly Bill No. 308 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 366.

Bill read third time.

Remarks by Assemblywoman Tolles.

ASSEMBLYWOMAN TOLLES:

Assembly Bill 366 provides that a recording of the provision of services by certain licensed mental health professionals to patients as part of a program of education is exempt from various requirements for the retention, maintenance, and disclosure of health care records if the recording is used for a training activity, the patient has provided informed consent to the use of the recording in the training activity, and discarding the recording does not result in the maintenance of incomplete patient records. This bill is effective on July 1, 2021.

Roll call on Assembly Bill No. 366:

YEAS—42.

NAYS—None.

Assembly Bill No. 366 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 390.

Bill read third time.

Remarks by Assemblywoman Brittney Miller.

ASSEMBLYWOMAN BRITTNEY MILLER:

Assembly Bill 390 requires that any notice of a contest to an election must also be provided to the candidate whose election is being contested.

The person contesting the election must notify the candidate if the contest is for a candidate in the general election for the offices of Governor, Lieutenant Governor, member of the Assembly or the State Senate, Supreme Court Justice, or Judge of the Court of Appeals.

Roll call on Assembly Bill No. 390:

YEAS—42.

NAYS—None.

Assembly Bill No. 390 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 395.

Bill read third time.

Remarks by Assemblymen Yeager, Black, Nguyen, Wheeler, and Anderson.

ASSEMBLYMAN YEAGER:

Assembly Bill 395 abolishes the imposition of a sentence of death on a person convicted of first-degree murder. Further, this measure reduces the sentence of any person sentenced to death to a sentence of imprisonment for life without the possibility of parole.

Now is the time to end the death penalty in Nevada. The death penalty is broken. Over the past 20 years, efforts to address troubling problems like racial bias, arbitrary and overbroad use, and wrongful convictions of innocent persons have all failed to fix the death penalty. Since the death penalty was reinstated in Nevada in 1976, 189 death sentences have been imposed. More than half of those have been reversed by either state or federal court. Reversals in these complex cases are not only costly and inevitable, they cause victims' family members to relive trauma. Death penalty cases almost always involve decades of litigation, with no guarantee the sentence will ever be carried out. In fact, only 1 of the 12 executions in the state's history was carried out against the condemned person's will. The 11 others voluntarily gave up their appeals.

The death penalty epitomizes concerns about racial injustice in our criminal justice system. Approximately 35 percent of the people on Nevada's death row are African American despite

accounting for only 8.6 percent of Nevada's population. More than half of the people on death row are people of color.

The death penalty is enormously costly while delivering no result—no greater public safety, no deterrent value, no real closure for murder victims' families. The Legislative Auditor found that each death penalty case in Nevada costs more than half a million dollars more than a case where the death penalty is not sought. That money could surely be spent better elsewhere, such as on education, improved mental health services for Nevadans, or on proactive efforts to prevent crime.

The last execution in the state happened 15 years ago. Nevada was unable to carry out an execution just two years ago due to the drug company's prohibiting the use of their medications for lethal injection, a right that our courts recognized as valid and legally enforceable. Nothing has changed since then other than the current stock of drugs inching ever closer to their expiration date. Meanwhile, victims' family members are deprived of the legal finality they are promised and they expect. A death sentence in Nevada means life in prison without the possibility of parole, whatever else we may choose to call it.

The death penalty is the epitome of an expensive government program that overpromises and under delivers. Now is the right time to end our costly, ineffective, and inhuman death penalty. Nevada should join two-thirds of the world's countries who have already banned the death penalty, many of whom have determined that it violated fundamental human rights. Some have concluded that the mere seeking of the death penalty is coercive enough to amount to a form of torture. The government simply should not be in the business of killing.

I will conclude with a quote often attributed to Gandhi. "An eye for an eye leaves the whole world blind." I urge your support of Assembly Bill 395.

ASSEMBLYWOMAN BLACK:

On September 2, 2011, Alyssa Otremba, just 15 years old, was walking home from borrowing a textbook from a friend. Javier Righetti kidnapped and dragged Alyssa into a desert lot where he sexually assaulted and raped her. Righetti then stabbed Alyssa more than 80 times in her head, neck, and body, then carved an LV for Las Vegas into her thigh because he said it made him feel gangster. During the autopsy, it was discovered that the tip of the knife had broken off in her skull. He returned hours later and poured gasoline on Alyssa's body and lit it on fire. The coroner had to use dental records to identify her. Alyssa's remains were in such bad condition that her family was advised not to see her because they would not want to remember her like that. Javier Righetti's guilt is not a question. He gave Alyssa Otremba a death sentence. He should get the same.

On January 20, 2008, a college student named Brianna Denison was kidnapped, raped, and brutally murdered by James Biela, who is currently on Nevada's death row. Her murder was committed just two months after Biela brutally raped, at gunpoint, another college student in a UNR parking garage. Miss Denison's body, clothed in only socks, was found weeks after the murder in a snow-covered field near a Reno business park under a discarded Christmas tree. She had been smothered with a pillow, raped, and ultimately strangled to death. DNA evidence conclusively proved that Biela was Miss Denison's killer. He was arrested, tried, convicted, and sentenced to death by a jury. Bri was only 19 years old, with her entire life ahead of her. But James Biela gave her the death penalty. He should get the same, and the sooner the better.

In the early morning hours of June 3, 1999, Zane Floyd walked into a neighborhood grocery store in Las Vegas and brutally executed four innocent Nevadans with a shotgun, including a mentally disabled young man and a 60-year-old grandmother who begged for her life. After his arrest, Mr. Floyd told a detective that he looked right at her and just blew her head apart. One of the police officers who captured Floyd at the scene of the bloody rampage recently wrote to me about the incident. Floyd said to him, "I probably shouldn't have done that. She reminded me of my mom." There is no doubt about Mr. Floyd's guilt. He was given a fair trial and sentenced to death by a jury. Considering the circumstances, it was the right and proper sentence.

According to the Nevada Department of Corrections, as of March 29, 2021, there were 1,126 convictions for first-degree murder currently in our prisons. Just 6.5 percent of those prisoners are on death row. Only the worst of the worst are sentenced to death. That is as it should be, and we should not abolish the death penalty.

ASSEMBLYWOMAN NGUYEN:

I rise in support of Assembly Bill 395. As many of you know, I work in the justice system, and our justice system, as far as I am concerned, is the best in the world. But just like any human creation, it is far from perfect. Therefore, the pursuit of justice should never have a result in the permanent taking of a life by the state. The practice does not make Nevada any safer. It requires millions of dollars in valuable resources and is a relic of an era where cruel and unusual punishments were commonplace. We have evolved beyond the need for executions, and that act has no place in our society.

The unaddressed racial bias in the capital punishment system has disproportionately impacted people of color. Black and Brown individuals are far more likely to receive a death penalty sentence, and the pervasive racial prejudice in this country's legal system is evident. No one should be sentenced to death while this issue persists.

The argument of the cost-effectiveness of capital punishment versus imprisonment is overplay and simply wrong. The complex and expensive legal process to seek the death penalty overrides any argument in the cost-effectiveness of this route. The lengthy process also delays justice for the victims' families, while using up invaluable resources and time that could be used to actually save lives, not end them.

I implore my colleagues to vote yes on Assembly Bill 395.

ASSEMBLYMAN WHEELER:

I rise in opposition of AB 395. Today, capital punishment is only used sparingly when evidence is irrefutable and the crime was egregious. Capital punishment is allowed in 27 states and works as a societal deterrent. It is also used many times as a negotiating tool during plea bargains. How many times have you heard of someone saying that we will take capital punishment off the table if you tell us where those two, three, four, five, six bodies are buried, so that people can get closure. This is something we are not talking about.

Capital punishment is only sought with the worst of crimes. No one during the committee testimony could explain to me why lethal injection is considered cruel and unusual punishment for death row inmates but a similar type of chemical death is okay for terminally ill patients. It does not make a lot of sense to me.

We must consider the victims. We must consider their families, and in the most extreme cases, we have got to deliver justice for them. I will be voting no and I urge my colleagues to do the same.

ASSEMBLYWOMAN ANDERSON:

I would like to share the words of the past, specifically those of Senator Joe Neal when he was discussing the death penalty in 1977.

"I do not believe the state should lower itself to the level of its aberrant citizens who do, through criminal activity, take human lives."

Capital punishment "gives the unmistakable message to all society that life ceases to be sacred when it is thought useful to take it and that violence is legitimate so long as it is thought justified by pragmatic concerns that appeal to those having the power to kill."

"Reliance on the death penalty obscures the true causes of crime and detracts attention from the effective resources of society to control it."

It is "wasteful of resources, demanding a disproportionate expenditure of time and energy by courts. . . . It burdens the system of criminal justice, and it is counter-productive as an instrument for society's control of violent crime. It uniquely epitomizes the tragic inefficiency and brutality of a resort to violence rather than reason for the solution of difficult social problems."

"I do not believe the state should be in the business of vengeance."

Senator Neal's comments are still true for today as are the words of American revolutionist Dr. Benjamin Rush, one of the signers of our Declaration of Independence when he represented Pennsylvania. He stated in May of 1774, "[W]hen a government puts one its citizens to death it exceeds the powers entrusted to it."

I ask for your support of AB 395.

Roll call on Assembly Bill No. 395:

YEAS—26.

NAYS—Black, Dickman, Ellison, Hafen, Hansen, Hardy, Kasama, Krasner, Leavitt, Matthews, McArthur, O’Neill, Roberts, Titus, Tolles, Wheeler—16.

Assembly Bill No. 395 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 396.

Bill read third time.

Remarks by Assemblymen Summers-Armstrong and O’Neill.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:

Assembly Bill 396 provides that peace officers, rather than officers, are authorized to use deadly force to effectuate an arrest. Furthermore, the peace officer, when using deadly force, must have probable cause to believe that a person has committed a felony involving the infliction or threat of serious bodily harm or the use of deadly force and poses an imminent threat of serious bodily harm to the peace officer or others.

ASSEMBLYMAN O’NEILL:

I rise in strong opposition to AB 396. I, along with virtually all law enforcement, am concerned that this bill places undue limitations on a peace officer’s ability to protect the public or themselves during extremely stressful situations. The word “and” in section 2.1 precludes and officer from using deadly force unless the suspect has committed a felony which involves the infliction or threat of serious bodily harm or the use of deadly force “and” possesses an imminent threat of serious bodily harm to the peace officer or to others. Both conditions must exist, which places an almost Herculean decision to be made by the officer in quite literally a split second at times; I can personally attest to that. Such serious and unnecessary consequences can and will occur. For this reason, I urge all of my colleagues to vote no on AB 396.

Roll call on Assembly Bill No. 396:

YEAS—26.

NAYS—Black, Dickman, Ellison, Hafen, Hansen, Hardy, Kasama, Krasner, Leavitt, Matthews, McArthur, O’Neill, Roberts, Titus, Tolles, Wheeler—16.

Assembly Bill No. 396 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 409.

Bill read third time.

Remarks by Assemblywoman Dickman.

ASSEMBLYWOMAN DICKMAN:

Assembly Bill 409 requires the Peace Officers’ Standards and Training Commission to adopt regulations concerning the recruitment and selection of peace officers, which must include evaluations to identify implicit bias on the part of a peace officer on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation, or gender identity or expression. This bill is effective on October 1, 2021.

Roll call on Assembly Bill No. 409:

YEAS—36.

NAYS—Black, Ellison, McArthur, O’Neill, Titus, Wheeler—6.

Assembly Bill No. 409 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 421.

Bill read third time.

Remarks by Assemblywoman Brown-May.

ASSEMBLYWOMAN BROWN-MAY:

Assembly Bill 421 establishes the preferred manner of referring to people with mental illness and people who are deaf or hard of hearing. The measure makes specific reference to what is considered the preferred language in *Nevada Revised Statutes*. In addition, the bill specifies that the *Nevada Administrative Code* must also use the preferred language and sentence structure when referring to persons with mental illness or persons who are deaf or hard of hearing.

Roll call on Assembly Bill No. 421:

YEAS—42.

NAYS—None.

Assembly Bill No. 421 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 214.

Bill read third time.

Remarks by Assemblywoman Considine.

ASSEMBLYWOMAN CONSIDINE:

Assembly Bill 214 revises the definition of sexual assault by replacing the gendered language in statute with gender neutral language.

Roll call on Assembly Bill No. 214:

YEAS—40.

NAYS—Black, McArthur—2.

Assembly Bill No. 214 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REMARKS FROM THE FLOOR

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Wednesday, April 14, 2021, at 2 p.m.

Motion carried.

Assembly adjourned at 1:56 p.m.

Approved:

JASON FRIERSON
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly