

SENATE BILL NO. 437—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 25, 2013

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions relating to false claims. (BDR 31-1090)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to false claims; revising provisions relating to the distribution of money recovered in certain actions for false claims; revising the definition of a “claim”; increasing the minimum and maximum amounts of civil penalties for certain acts related to false claims; revising provisions relating to the statute of limitations for false claim actions; making various other changes to provisions relating to actions for false claims; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The federal Deficit Reduction Act of 2005, Public Law 109-171, enacted
2 certain provisions concerning state plans for Medicaid. Section 6031 of the Act
3 provides financial incentives for states that enact laws establishing liability for false
4 or fraudulent claims made to the state plans for Medicaid. For a state to be eligible
5 for these financial incentives, the laws of the state must contain provisions that are
6 at least as effective at rewarding and facilitating certain actions for false or
7 fraudulent claims as those described in certain provisions of federal law relating to
8 false claims. (31 U.S.C. §§ 3730-3732) This bill amends existing Nevada law
9 concerning the filing of false or fraudulent claims so that the laws of this State are
10 at least as effective at rewarding and facilitating such actions as the provisions
11 described in federal law.

12 Existing law governs the distribution of any recovery from a false claim action.
13 (NRS 357.200-357.230) **Section 5** of this bill authorizes a court to award not more
14 than 10 percent of any recovery to a person who: (1) voluntarily discloses
15 information on which the allegations in the action for a false claim are based before
16 the public disclosure of such information; or (2) has knowledge of information that
17 is independent of and materially adds to any publicly disclosed allegations or



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18 transactions and who voluntarily provides such information to the State or a
19 political subdivision. **Section 18** of this bill authorizes a court to reduce the
20 recovery to which a private plaintiff is otherwise entitled if the private plaintiff
21 planned or initiated the false claim on which the action is based and provides that if
22 such a private plaintiff is convicted of criminal conduct related to a false claim, he
23 or she is not entitled to any share of the recovery.

24 **Sections 2 and 3** of this bill, respectively, set forth definitions of the terms
25 “material” and “obligation.” **Section 7** of this bill amends the definition of “claim.”

26 **Section 8** of this bill provides that a person who knowingly conceals or
27 knowingly and improperly avoids or decreases an obligation to pay or transmit
28 money or property to the State or a political subdivision is liable for damages and a
29 civil penalty. **Section 8** also increases the minimum and maximum amounts of civil
30 penalties for which a person who commits certain acts related to false claims is
31 liable.

32 **Section 9** of this bill requires the Attorney General to investigate diligently any
33 alleged liability for a false claim.

34 Existing law provides that a false claim action may be dismissed only with
35 leave of the court. (NRS 357.080) **Section 10** of this bill provides that a false claim
36 action may be dismissed only with the written consent of the court and the Attorney
37 General.

38 **Section 12** of this bill provides that if the Attorney General or the Attorney
39 General’s designee intervenes in a false claim action brought by a private plaintiff,
40 the Attorney General or the designee may file a complaint or amend the complaint
41 of the private plaintiff.

42 **Section 13** of this bill provides that if the Attorney General or the Attorney
43 General’s designee intends to settle a false claim action, the court is required to
44 determine whether the proposed settlement is fair, adequate and reasonable under
45 the circumstances.

46 Existing law authorizes the Attorney General or the Attorney General’s
47 designee to intervene in an action in which he or she has previously declined to
48 intervene upon a timely application to the court. (NRS 357.130) **Section 14** of this
49 bill provides that the Attorney General or the Attorney General’s designee may, for
50 good cause shown, intervene in an action in which he or she has previously
51 declined to intervene.

52 **Section 15** of this bill reduces the amount of time that a defendant has to
53 respond to a complaint in a false claim action from 30 days to 20 days.

54 **Section 20** of this bill revises provisions relating to the liability of an employer
55 who retaliates against an employee for taking any lawful action related to a false
56 claim.

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

1 **Section 1.** Chapter 357 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2.** *“Material” means having a natural tendency to*
5 *influence or be capable of influencing the payment or receipt of*
6 *money, property or services.*

7 **Sec. 3.** *“Obligation” means any established duty, regardless*
8 *of whether the duty is a fixed duty, arising from:*



- 1 *1. An express or implied contractual relationship;*
- 2 *2. A relationship between a grantor and a grantee;*
- 3 *3. A relationship between a licensor and a licensee;*
- 4 *4. A fee-based or similar relationship;*
- 5 *5. A statute or regulation; or*
- 6 *6. The retention of any overpayment.*

7 **Sec. 4. "Original source" means a person:**

8 *1. Who voluntarily discloses to the State or a political*
9 *subdivision the information on which the allegations in an action*
10 *for a false claim are based before the public disclosure of the*
11 *information; or*

12 *2. Who has knowledge of information that is independent of*
13 *and materially adds to the publicly disclosed allegations or*
14 *transactions and who voluntarily provides such information to the*
15 *State or political subdivision before bringing an action for a false*
16 *claim based on the information.*

17 **Sec. 5. In an action brought pursuant to NRS 357.100 by an**
18 **original source, the court may award not more than 10 percent of**
19 **the recovery to the original source. In determining the amount to**
20 **be awarded pursuant to this section, the court shall consider the**
21 **role of the original source in advancing the claim to litigation.**

22 **Sec. 6. NRS 357.010 is hereby amended to read as follows:**

23 357.010 As used in this chapter, unless the context otherwise
24 requires, the words and terms defined in NRS 357.020 and 357.030
25 *and sections 2, 3 and 4 of this act* have the meanings ascribed to
26 them in those sections.

27 **Sec. 7. NRS 357.020 is hereby amended to read as follows:**

28 357.020 *1. "Claim" means ~~the~~ any request or demand ,*
29 *regardless of whether it is made under a contract or otherwise, for*
30 *money, property or services ~~made to:~~*

31 ~~*1. An*~~ *, regardless of whether the State or a political*
32 *subdivision has title to the money or property, that is:*

33 *(a) Presented to an officer, employee or agent of this state or of*
34 *a political subdivision of this state; or*

35 ~~*2. A*~~

36 *(b) Made to a contractor, grantee or other recipient ~~of~~ if the*
37 *money ~~from~~ , property or services are to be spent or used on*
38 *behalf of the State or a political subdivision ~~of this state if any part~~*
39 *of the money, property or services requested or demanded was*
40 *provided by* ~~and the State or political subdivision~~ *:*

41 *(1) Provides or has provided any portion of the money,*
42 *property or services that are requested or demanded; or*

43 *(2) Will reimburse the contractor, grantee or other recipient*
44 *for any portion of the money, property or services that are*
45 *requested or demanded.*



1 **2. The term does not include a request or demand for money**
2 **or property that the State or a political subdivision has paid or**
3 **provided to a natural person as:**

4 **(a) Compensation for employment; or**

5 **(b) An income subsidy with no restriction on the natural**
6 **person's use of the money or property.**

7 **Sec. 8.** NRS 357.040 is hereby amended to read as follows:

8 357.040 1. Except as otherwise provided in NRS 357.050, a
9 person who, with or without specific intent to defraud, does any of
10 the following listed acts is liable to the State or a political
11 subdivision, whichever is affected, for ~~{three times the amount of~~
12 ~~damages sustained by the State or political subdivision because of~~
13 ~~the act of that person, for the costs of a civil action brought to~~
14 ~~recover those damages and for a civil penalty of not less than \$5,000~~
15 ~~or more than \$10,000 for each act.}~~ **the amounts set forth in**
16 **subsection 2:**

17 **(a) Knowingly presents or causes to be presented a false or**
18 **fraudulent claim for payment or approval.**

19 **(b) Knowingly makes or uses, or causes to be made or used, a**
20 **false record or statement ~~{to obtain payment or approval of}~~ that is**
21 **material to a false or fraudulent claim.**

22 **~~{Conspires to defraud by obtaining allowance or payment of~~**
23 **a false claim.**

24 **~~{d}~~ Has possession, custody or control of public property or**
25 **money *used or to be used by the State or a political subdivision* and**
26 **knowingly delivers or causes to be delivered to the State or a**
27 **political subdivision less money or property ~~{than the amount for~~**
28 **~~which the person receives a receipt.~~**

29 **~~{e}~~ *than the amount of which the person has possession,***
30 ***custody or control.***

31 **(d) Is authorized to prepare or deliver a ~~{receipt for}~~ document**
32 ***that certifies receipt of* money or property *used or* to be used by the**
33 **State or a political subdivision and knowingly prepares or delivers**
34 ***such a* ~~{receipt that falsely represents the money or property.~~**

35 **~~{f}~~ document without knowing that the information on the**
36 **document is true.**

37 **(e) Knowingly buys, or receives as *a pledge or* security for an**
38 **obligation ~~{}~~ *or debt,* public property from a person who is not**
39 **authorized to sell or pledge the property.**

40 **~~{g}~~ (f) Knowingly makes or uses, or causes to be made or**
41 **used, a false record or statement ~~{to conceal, avoid or decrease}~~ that**
42 ***is material to* an obligation to pay or transmit money or property to**
43 **the State or a political subdivision.**



1 *(g) Knowingly conceals or knowingly and improperly avoids or*
2 *decreases an obligation to pay or transmit money or property to*
3 *the State or a political subdivision.*

4 (h) Is a beneficiary of an inadvertent submission of a false claim
5 and, after discovering the falsity of the claim, fails to disclose the
6 falsity to the State or political subdivision within a reasonable time.

7 *(i) Conspires to commit any of the acts set forth in this*
8 *subsection.*

9 2. *For each act described in subsection 1 that is committed by*
10 *a person, the person is liable for:*

11 *(a) Three times the amount of damages sustained by the State*
12 *or political subdivision, whichever is affected, because of the act of*
13 *the person;*

14 *(b) The costs of a civil action brought to recover the damages*
15 *described in paragraph (a); and*

16 *(c) A civil penalty of not less than \$5,500 or more than*
17 *\$11,000.*

18 3. As used in this section, a person acts “knowingly” with
19 respect to information if he or she:

20 (a) Has knowledge of the information;

21 (b) Acts in deliberate ignorance of whether the information is
22 true or false; or

23 (c) Acts in reckless disregard of the truth or falsity of the
24 information.

25 **Sec. 9.** NRS 357.070 is hereby amended to read as follows:

26 357.070 1. Except as otherwise provided in subsection 2, the
27 Attorney General shall investigate *diligently* any alleged liability
28 pursuant to this chapter and may bring a civil action pursuant to this
29 chapter against the person liable.

30 2. A district attorney or city attorney may accept a designation
31 from the Attorney General to investigate any alleged liability
32 pursuant to this chapter and may bring a civil action pursuant to this
33 chapter against the person liable.

34 **Sec. 10.** NRS 357.080 is hereby amended to read as follows:

35 357.080 1. Except as otherwise provided in this section and
36 NRS ~~357.090 and~~ 357.100, a private plaintiff may ~~maintain~~
37 *bring* an action pursuant to this chapter *for a violation of NRS*
38 *357.040* on his or her own account and that of the State ~~if money,~~
39 ~~property or services provided by the State are involved, or on his or~~
40 ~~her own account and that of~~ *or* a political subdivision ~~if money,~~
41 ~~property or services provided by the political subdivision are~~
42 ~~involved, or on his or her own account and that of both the State and~~
43 ~~a political subdivision if both are involved.] , or both the State and~~
44 *a political subdivision. The action must be brought in the name of*
45 *the State or the political subdivision, or both.* After such an action



1 is commenced, it may be dismissed only with ~~leave~~ *written*
2 *consent* of the court ~~[- taking]~~ *and the Attorney General. The court*
3 *and the Attorney General shall take* into account the public
4 purposes of this chapter and the best interests of the parties ~~[-]~~ *in*
5 *dismissing the action or consenting to the dismissal, as applicable,*
6 *and provide the reasons for dismissing the action or consenting to*
7 *the dismissal, as applicable.*

8 2. If a private plaintiff brings an action pursuant to this chapter,
9 no ~~tother~~ person *other than the Attorney General or the Attorney*
10 *General's designee* may *intervene or* bring ~~another~~ *a related*
11 action pursuant to this chapter based on the ~~same~~ facts ~~[-]~~
12 *underlying the first action.*

13 3. An action may not be maintained by a private plaintiff
14 pursuant to this chapter:

15 (a) Against a member of the Legislature or the Judiciary, an
16 elected officer of the Executive Department of the State
17 Government, or a member of the governing body of a political
18 subdivision, if the action is based upon evidence or information
19 known to the State or political subdivision at the time the action was
20 brought.

21 (b) If the action is based upon allegations or transactions that are
22 the subject of a civil action or an administrative proceeding for a
23 monetary penalty to which the State or political subdivision is
24 already a party.

25 4. A complaint filed pursuant to this section must be placed
26 under seal and so remain for at least 60 days or until the Attorney
27 General or a designee of the Attorney General pursuant to NRS
28 357.070 has elected whether to intervene. No service may be made
29 upon the defendant until ~~the complaint is unsealed.~~ *so ordered by*
30 *the court.*

31 5. On the date the private plaintiff files a complaint, he or she
32 shall send a copy of the complaint to the Attorney General by mail
33 with return receipt requested. The private plaintiff shall send with
34 each copy of the complaint a written disclosure of substantially all
35 ~~material~~ evidence and information he or she possesses. If a district
36 attorney or city attorney has accepted a designation from the
37 Attorney General pursuant to NRS 357.070, the Attorney General
38 shall forward a copy of the complaint to the district attorney or city
39 attorney, as applicable.

40 6. An action pursuant to this chapter may be brought in any
41 judicial district in this State in which the defendant can be found,
42 resides, transacts business or in which any of the alleged fraudulent
43 activities occurred.



1 **Sec. 11.** NRS 357.100 is hereby amended to read as follows:

2 357.100 ~~{1. No action may be maintained}~~ *Unless the*
3 *Attorney General objects, a court shall dismiss an action or a*
4 *claim made* pursuant to this chapter that is ~~{based upon the public~~
5 ~~disclosure of}~~ *substantially based on* allegations or transactions ~~{in}~~
6 *that have been disclosed publicly:*

7 1. *In a criminal, civil or administrative hearing ~~{, in}~~ to which*
8 *the State, a political subdivision, or an agent of the State or a*
9 *political subdivision is a party;*

10 2. *In an investigation, report, hearing or audit conducted by or*
11 *at the request of a house of the Legislature, an auditor or the*
12 *governing body of a political subdivision ; ~~{,}~~ or ~~{from}~~*

13 3. *By the news media,*
14 *↪ unless the action or claim is brought by the Attorney General, a*
15 *designee of the Attorney General pursuant to NRS 357.070 or an*
16 *original source of the information.*

17 ~~{2. As used in this section, "original source" means a person:~~
18 ~~—(a) Who has direct and independent knowledge of the~~
19 ~~information on which the allegations were based;~~
20 ~~—(b) Who voluntarily provided the information to the State or~~
21 ~~political subdivision before bringing an action based on the~~
22 ~~information; and~~
23 ~~—(c) Whose information provided the basis or caused the making~~
24 ~~of the investigation, hearing, audit or report that led to the public~~
25 ~~disclosure.}~~

26 **Sec. 12.** NRS 357.110 is hereby amended to read as follows:

27 357.110 1. Within 60 days after receiving a complaint and
28 disclosure, the Attorney General or a designee of the Attorney
29 General pursuant to NRS 357.070 may intervene and proceed with
30 the action or, for good cause shown, move the court to extend the
31 time for his or her election whether to proceed. The motion may be
32 supported by affidavits or other submissions in chambers.

33 2. If the Attorney General or the Attorney General's designee
34 elects *not* to intervene, ~~{the complaint must be unsealed. If the~~
35 ~~Attorney General or the Attorney General's designee elects not to~~
36 ~~intervene.}~~ the private plaintiff may proceed ~~{and the complaint~~
37 ~~must be unsealed.}~~ *with the action.*

38 3. *If the Attorney General or the Attorney General's designee*
39 *elects to intervene, the Attorney General or the Attorney General's*
40 *designee may file his or her own complaint or amend the*
41 *complaint of the private plaintiff who brought the action pursuant*
42 *to NRS 357.080. For the purposes of the statute of limitations set*
43 *forth in NRS 357.170, any such pleading relates back to the filing*
44 *date of the complaint of the private plaintiff, to the extent that any*
45 *claim made by the Attorney General or the Attorney General's*



1 *designee arises out of the conduct, transactions or occurrences set*
2 *forth or attempted to be set forth in the prior complaint of the*
3 *private plaintiff.*

4 **Sec. 13.** NRS 357.120 is hereby amended to read as follows:

5 357.120 1. If the Attorney General or a designee of the
6 Attorney General pursuant to NRS 357.070 intervenes, the private
7 plaintiff remains a party to an action pursuant to NRS 357.080.

8 2. The Attorney General or the Attorney General's designee
9 may move to dismiss the action for good cause. The private plaintiff
10 must be notified of the filing of the motion and is entitled to oppose
11 it and present evidence at the hearing.

12 3. Except as otherwise provided in this subsection, the
13 Attorney General or the Attorney General's designee may settle the
14 action. If the Attorney General or the Attorney General's designee
15 intends to settle the action, the Attorney General or the Attorney
16 General's designee shall notify the private plaintiff of that fact.
17 Upon the request of the private plaintiff, the court shall determine
18 whether *the proposed settlement is fair, adequate and*
19 *reasonable under all the circumstances. Upon a showing for good*
20 *cause, the court may hear the proposed settlement in camera.*
21 ~~whether the proposed settlement is fair, adequate and~~
22 ~~reasonable under all the circumstances. Upon a showing for good~~
23 ~~cause, the court may hear the proposed settlement in camera.~~

24 **Sec. 14.** NRS 357.130 is hereby amended to read as follows:

25 357.130 1. If the Attorney General or a designee of the
26 Attorney General pursuant to NRS 357.070 elects not to intervene in
27 an action pursuant to NRS 357.080, the private plaintiff has the
28 same rights in conducting the action as the Attorney General or the
29 Attorney General's designee would have had. A copy of each
30 pleading or other paper filed in the action, and a copy of the
31 transcript of each deposition taken, must be mailed to the Attorney
32 General or the Attorney General's designee if the Attorney General
33 or the Attorney General's designee so requests and pays the cost
34 thereof.

35 2. ~~Upon timely application,~~ *For good cause shown,* the
36 Attorney General or the Attorney General's designee may intervene
37 in an action in which he or she has previously declined to intervene,
38 if the interest of the State or a political subdivision in recovery of
39 the money or property involved is not being adequately represented
40 by the private plaintiff.

41 3. If the Attorney General or the Attorney General's designee
42 so intervenes, the private plaintiff retains primary responsibility for
43 conducting the action and any recovery must be apportioned as if
44 the Attorney General or the Attorney General's designee had not
45 intervened.



1 **Sec. 15.** NRS 357.140 is hereby amended to read as follows:
2 357.140 The defendant is entitled to ~~30~~ 20 days in which to
3 respond after a complaint filed pursuant to NRS 357.080 is unsealed
4 and served upon the defendant.

5 **Sec. 16.** NRS 357.180 is hereby amended to read as follows:
6 357.180 1. If the Attorney General, a designee of the
7 Attorney General pursuant to NRS 357.070 or a private plaintiff
8 prevails in or settles an action pursuant to NRS 357.080, the private
9 plaintiff is entitled to a reasonable amount for expenses that the
10 court finds were necessarily incurred, including reasonable costs,
11 attorney's fees and the fees of expert consultants and expert
12 witnesses. Those expenses must be awarded against the defendant,
13 and may not be allowed against the State or a political subdivision.

14 2. If *the Attorney General or the Attorney General's designee*
15 *does not proceed with the action and* the defendant prevails in the
16 action ~~H~~ *brought by a private plaintiff*, the court may award the
17 defendant reasonable expenses and attorney's fees against the party
18 or parties who participated in the action if it finds that the action was
19 clearly frivolous ~~or~~ , *clearly* vexatious or brought ~~solely~~
20 *primarily for the purposes of* harassment.

21 **Sec. 17.** NRS 357.190 is hereby amended to read as follows:
22 357.190 As used in NRS 357.190 to 357.230, inclusive, *and*
23 *section 5 of this act*, "recovery" includes civil penalties and does
24 not include any allowance of expenses or attorney's fees.

25 **Sec. 18.** NRS 357.210 is hereby amended to read as follows:
26 357.210 1. ~~H~~ *Except as otherwise provided in subsection*
27 *3, if* the Attorney General or a designee of the Attorney General
28 pursuant to NRS 357.070 intervenes at the outset in an action
29 pursuant to NRS 357.080, the private plaintiff is entitled ~~to~~
30 ~~receive not less than 15 percent or more than 33 percent of any recovery, according to the~~
31 ~~extent of his or her contribution to the conduct of the action.~~
32

33 2. ~~H~~ *Except as otherwise provided in subsection 3, if* the
34 Attorney General or the Attorney General's designee does not
35 intervene in the action at the outset, the private plaintiff is entitled ~~to~~
36 ~~receive not less than 25 percent or more than 50 percent of any recovery, as the~~
37 ~~court determines to be reasonable.~~
38

39 3. *Regardless of whether the Attorney General or the*
40 *Attorney General's designee intervenes in the action, if the court*
41 *finds that the action was brought by a private plaintiff who*
42 *planned or initiated the violation of NRS 357.040 upon which the*
43 *action is based, the court may reduce the recovery to which the*
44 *private plaintiff is otherwise entitled pursuant to subsection 1 or 2.*
45 *The court shall consider the role of the private plaintiff in*



1 *advancing the action and any other relevant circumstances. If the*
2 *private plaintiff is convicted of criminal conduct arising from his*
3 *or her role in the violation of NRS 357.040, the private plaintiff*
4 *must be dismissed from the civil action and must not receive any*
5 *share of the recovery pursuant to subsection 1 or 2. Any such*
6 *dismissal does not prejudice the right of the Attorney General or*
7 *the Attorney General's designee to continue the action.*

8 **Sec. 19.** NRS 357.230 is hereby amended to read as follows:

9 357.230 The portion of any recovery not apportioned pursuant
10 to NRS 357.200 ~~††~~ and 357.210 ~~†and 357.220†~~ must be paid into the
11 State General Fund if the money, property or services were provided
12 only by the State, or into the general fund of the political
13 subdivision if they were provided only by a political subdivision. If
14 the action involved both the State and a political subdivision, the
15 court shall apportion the remaining portion of any recovery between
16 them according to the respective values of the money, property or
17 services provided by each.

18 **Sec. 20.** NRS 357.250 is hereby amended to read as follows:

19 357.250 1. ~~†An employer who violates subsection 2 of NRS~~
20 ~~357.240 is liable to the affected employee in a civil action for all~~
21 ~~relief necessary to make the affected†~~ *If an employee, contractor*
22 *or agent is discharged, demoted, suspended, threatened, harassed*
23 *or discriminated against in the terms and conditions of*
24 *employment as a result of any lawful act of the employee,*
25 *contractor or agent in furtherance of an action brought pursuant*
26 *to this chapter, the employee, contractor or agent is entitled to all*
27 *relief necessary to make the employee, contractor or agent whole,*
28 including, without limitation, reinstatement with the same seniority
29 as if the *discharge, demotion, suspension, threat, harassment or*
30 discrimination had not occurred or damages in lieu of reinstatement
31 if appropriate, twice the amount of lost compensation, interest on
32 the lost compensation, any special damage sustained as a result of
33 the *discharge, demotion, suspension, threat, harassment or*
34 discrimination and punitive damages if appropriate. The ~~†employer~~
35 ~~is also liable†~~ *employee, contractor or agent may also receive*
36 *compensation* for expenses recoverable pursuant to NRS 357.180,
37 costs and attorney's fees.

38 2. ~~†An employee is entitled to the remedies provided in~~
39 ~~subsection 1 only if the employee:~~

40 ~~—(a) Voluntarily disclosed information to the State or a political~~
41 ~~subdivision or voluntarily acted in furtherance of an action pursuant~~
42 ~~to this chapter; and-~~

43 ~~—(b) Was harassed, threatened with termination or demotion, or~~
44 ~~otherwise coerced by his or her employer into any participation in~~
45 ~~fraudulent activity.†~~ *A civil action brought pursuant to this section*



1 *may not be brought more than 3 years after the date on which the*
2 *discharge, demotion, suspension, threat, harassment or*
3 *discrimination occurred.*

4 **Sec. 21.** NRS 357.090, 357.220 and 357.240 are hereby
5 repealed.

6 **Sec. 22.** This act becomes effective on July 1, 2013.

TEXT OF REPEALED SECTIONS

357.090 Action based on information public employee discovered during public employment prohibited in certain circumstances. No action may be maintained pursuant to NRS 357.080 that is based upon information discovered by a present or former employee of the State or a political subdivision during his or her employment, unless he or she first in good faith exhausted internal procedures for reporting and seeking recovery of the proceeds of the fraudulent activity through official channels and the State or political subdivision failed to act on the information provided for at least 6 months.

357.220 Distribution to private plaintiff in action based upon information obtained by public employee during public employment.

1. If the action is one described in NRS 357.090, the present or former employee of the State or political subdivision is not entitled to any minimum percentage of any recovery, but the court may award him or her no more than 33 percent of the recovery if the Attorney General or a designee of the Attorney General pursuant to NRS 357.070 intervenes in the action at the outset, or no more than 50 percent if the Attorney General or the Attorney General's designee does not intervene, according to the significance of his or her information, the extent of his or her contribution to the conduct of the action and the response to his or her efforts to report the false claim and gain recovery through other official channels.

2. If the private plaintiff is a present or former employee of the State or a political subdivision and benefited financially from the fraudulent activity, he or she is not entitled to any minimum percentage of any recovery, but the court may award the private plaintiff no more than 33 percent of the recovery if the Attorney General or the Attorney General's designee intervenes in the action at the outset, or no more than 50 percent if the Attorney General or the Attorney General's designee does not intervene, according to the significance of his or her information, the extent of his or her



contribution to the conduct of the action, the extent of his or her involvement in the fraudulent activity, his or her attempts to avoid or resist the activity and the other circumstances of the activity.

357.240 Employer prohibited from forbidding employee from making certain disclosures or acting in furtherance of action relating to false claim and from taking any retaliatory action against employee for such disclosures or actions.

1. An employer shall not adopt or enforce any rule or policy forbidding an employee to disclose information to the State, a political subdivision or a law enforcement agency or to act in furtherance of an action pursuant to this chapter, including investigation for, bringing or testifying in such an action.

2. An employer shall not discharge, demote, suspend, threaten, harass, deny promotion to or otherwise discriminate against an employee in the terms or conditions of his or her employment because of lawful acts done by the employee on his or her own behalf or on behalf of others in disclosing information to the State, a political subdivision or a law enforcement agency in furtherance of an action pursuant to this chapter, including investigation for, bringing or testifying in such an action.

