

BRIAN SANDOVAL  
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STATE OF NEVADA

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## MEMORANDUM

TO: Nevada Department of Agriculture Offices  
State Capitol Building  
State Library and Archives  
Dennis Belcourt – AG’s Office

FROM: Donnell Barton, Food and Nutrition Division Administrator – 775-353-3625  
[dbarton@agri.nv.gov](mailto:dbarton@agri.nv.gov) Fax Number 775-353-3749

SUBJECT: Posting of Agenda for Hearing on Notice of Intent to Act Upon a Regulation Scheduled for November 18, 2015, at 10am.

DATE: October 7, 2015

I have attached a copy of the agenda for the Nevada Department of Agriculture Hearing for Notice of Intent to Act Upon a Regulation that will be held on Wednesday, November 18, 2015 at 10am

Please post the agenda before 9:00am on October 13, 2015 per *open meeting law* and return this memo to my attention, signed with the date of posting, as I need this for our files.

We appreciate your assistance in this posting.

Thank you.

Distribution: State Capitol Building  
State Library and Archives  
Dennis Belcourt – AG’s Office  
Sparks Office – Nevada Department of Agriculture  
Las Vegas Office – Nevada Department of Agriculture  
Elko Office – Nevada Department of Agriculture  
Consumer Equitability – Department of Agriculture

OFFICE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE & TIME OF POST: \_\_\_\_\_

## MEETING NOTICE AND AGENDA

Public Hearing

Notice of Intent to Act Upon a Regulation

LOCATION: Nevada Department of Agriculture  
405 S. 21<sup>st</sup> Street  
Sparks, NV 89431  
Phone: 775-353-3601

*Video-conference to:* Nevada Department of Agriculture  
2300 McLeod Street  
Las Vegas, NV 89104  
Phone 702-668-4590

DATE AND TIME: Wednesday, November 18, 2015, 10am.

Public comment will be taken on the intent to adopt a regulation. The purpose is to solicit public comments from interested persons on the following proposed regulation: NAC 387; *a regulation relating to adopt provisions to implement Breakfast after the Bell Program; and providing other matters properly relating thereto.*

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify The Dept. of Agriculture in writing at 405 S. 21<sup>st</sup> Street, Sparks, NV 89431 or contact Jerri Conrad at 775-353-3619.

Copies of both the State of Nevada Board of Agriculture Agenda with supporting documentation and Open Meeting Minutes are available, at no charge, for inspection at the Dept. of Agriculture 405 S. 21<sup>st</sup> Street, Sparks, NV, 89431 or Dept. of Agriculture website at [www.agri.state.nv.us](http://www.agri.state.nv.us). For additional information contact Jerri Conrad at 775-353-3619.

Notice of this meeting was posted on or before 9:00 a.m. on the third working day before the meeting at the following locations: Nevada Department of Agriculture, 405 S. 21<sup>st</sup> Street, Sparks, NV 89431, Nevada Department of Agriculture, 2150 Frazer Ave., Sparks, NV 89431, Nevada Department of Agriculture, 4780 E. Idaho Street, Elko, NV 89801, Nevada Department of Agriculture, 2300 McLeod Street, Las Vegas, NV 89104, State of Nevada Capital Building, Carson City NV, State Library and Archives, Carson City.

# PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE

LCB File No. R082-15

DIVISION OF Food and Nutrition

## NOTICE OF INTENT TO ACT UPON A REGULATION And NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS

The Nevada Department of Agriculture will hold a public hearing on Wednesday, November 18, 2015, at 10am, at Agriculture Headquarters, 405 South 21<sup>st</sup> Street, Sparks, NV 89431; Phone: (775) 353-3601. The purpose of the hearing is to receive comments from all interested persons regarding the Amendment of regulations that pertain to chapter 387 of the Nevada Administrative Code. The proposal has been designated as File No. R082-15 by the Nevada Legislative Counsel Bureau.

The following information is provided pursuant to the requirements of NRS 233B.0603:

The purpose is to solicit public comments from interested persons on the following proposed regulation: NAC 387; *a regulation relating to adopt provisions to implement Breakfast after the Bell program; and providing other matters properly relating thereto.*

1. The purpose of the proposed regulation or amendment is to adopt provisions to implement Breakfast after the bell program.
2. The provisions of the proposed regulations apply only to certain Nevada school districts. The regulations were available on the website of the Department of Agriculture, [www.agri.nv.gov](http://www.agri.nv.gov).
3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.
  - Does not apply.
4. The Department estimates that the first year cost will be \$15,250.00, the second year \$4,500. Thereafter the grant program is terminated.
5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.
  - Does not apply
6. If the regulation is required pursuant to federal law, a citation and description of the federal law.
  - Does not apply
7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.
  - Does not apply
8. Whether the proposed regulation establishes a new fee or increases an existing fee.
  - Does not apply

A concerted effort was made to determine the impact of the proposed regulation on small businesses. Division administration staff determined that this regulation change will not have an effect on small businesses.

The LCB approved revision can be found on the Nevada Department of Agriculture website at [www.agri.nv.gov](http://www.agri.nv.gov).

Persons wishing to comment upon the proposed action of the Nevada Department of Agriculture may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the address below.

**Nevada Department of Agriculture**  
**405 S. 21<sup>st</sup> Street**  
**Sparks, NV 89431**  
**ATTN: Donnell Barton**  
**(775) 353-3625**  
**dbarton@agri.nv.gov**

Written submissions must be received by the Nevada Department of Agriculture on or before November 13, 2015. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Agriculture may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at:

Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431

Nevada Department of Agriculture  
2300 McLeod  
Las Vegas, NV 89104

Nevada Department of Agriculture  
4780 E. Idaho Street  
Elko, NV 89445

And in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

NRS 233B.064(2) provides: Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

**The Nevada State Library in Carson City, and all Nevada county libraries. The Department of Agriculture offices in Sparks, Las Vegas or Elko during the hours of 8:00 a.m. until 5:00 p.m. Monday through Friday.**

Clark County Library, 833 Las Vegas Boulevard North, Las Vegas, NV 89101  
Douglas County Library, 1625 Library Lane, Minden, NV 89423  
Elko County Library, 720 Court Street, Elko, NV 89801  
Esmeralda County Library, Corner of Crook & 4<sup>th</sup> Streets, Goldfield, NV 89013  
Eureka Branch Library, 10190 Monroe Street, P.O. Box 293, Eureka, NV 89316  
Humboldt County Library, 85 East 5<sup>th</sup> Street, Winnemucca, NV 89445  
Lander County Library, 625 South Broad Street, Battle Mountain, NV 89820  
Lincoln County Library, 63 Main Street, Pioche, NV 89043  
Lyon County Library, 20 Nevin Way, Yerington, NV 89447  
Mineral County Public Library, 110 1<sup>st</sup> Street, Hawthorne, NV 89415  
Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419  
Storey County Public Library, 95 South R Street, Virginia City, NV 89440  
Tonopah Public Library, 167 Central Street, Tonopah, NV 89049  
Washoe County Library, 301 South Center Street, Reno, NV 89501  
White Pine County Library, 950 Campton Street, Ely, NV 89301  
Nevada State Legislature Website: [www.leg.state.nv.us](http://www.leg.state.nv.us)

STATE OF NEVADA  
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING  
401 S. CARSON STREET  
CARSON CITY, NEVADA 89701-4747  
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800  
MICHAEL ROBERSON, *Senator, Chairman*  
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821  
PAUL ANDERSON, *Assemblyman, Chairman*  
Cindy Jones, *Fiscal Analyst*  
Mark Krmpotic, *Fiscal Analyst*

RICK COMBS, *Director*  
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830  
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815  
SUSAN E. SCHOLLEY, *Research Director* (775) 684-6825

October 1, 2015

Lynn Hettrick  
Deputy Director  
Administrative Division  
Nevada Department of Agriculture  
405 South 21st Street  
Sparks, Nevada 89431

Re: LCB File No. R082-15

Dear Mr. Hettrick:

A proposed regulation of the State Department of Agriculture has been examined pursuant to NRS 233B.063 and is returned in revised form.

We invite you to discuss with us any questions which you may have concerning this review. Please make reference to our file number in all further correspondence relating to this regulation.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Darcy L. Johnson".

Darcy L. Johnson  
Deputy Legislative Counsel

Brenda J. Erdoes  
Legislative Counsel

DLJ/slj  
Enclosure

**PROPOSED REGULATION OF THE  
STATE DEPARTMENT OF AGRICULTURE**

**LCB File No. R082-15**

October 1, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets [~~emitted-material~~] is material to be omitted.

AUTHORITY: §1, section 12 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page 3855; §2, section 8 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page 3853, and section 12 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page 3855.

A REGULATION relating to education; providing procedures for certain public schools to request to opt out of participation in the Breakfast After the Bell Program; providing procedures for certain public schools to request a waiver for the purpose of participating in the Program; and providing other matters properly relating thereto.

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**Legislative Counsel's Digest:**

Existing law requires certain public schools to participate in the Breakfast After the Bell Program, which provides breakfast to pupils after the instructional day has officially begun, unless a school has submitted to the State Department of Agriculture a request to not participate, along with certain information. (Section 6 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page 3852) **Section 1** of this regulation sets forth the information a public school must submit to the Department to be allowed to opt out of participation in the Program. **Section 2** of this regulation provides a procedure whereby a public school that is not required to participate in the Program may request a waiver to be allowed to participate.

**Section 1.** Chapter 387 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, a public school which is required by subsection 2 of section 6 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page*

*3852, to participate in the Breakfast After the Bell Program but which is seeking to opt out of participating in the Program pursuant to subsection 3 of section 6 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page 3852, must submit to the State Department of Agriculture a request to opt out of participating in the Program, accompanied by the following information for each of the 2 school years immediately preceding the school year for which the public school is seeking to opt out of participating in the Program:*

*(a) The number of enrolled pupils in the school and the number of pupils eligible for free and reduced-price lunches under the National School Lunch Act as of October 31 of the school year; or*

*(b) The percentage of pupils eligible for free or reduced-price lunches under the National School Lunch Act who participated in the Program and the total cost to the public school or school district for the food and labor used in the Program at that public school.*

*2. If the State Department of Agriculture determines that sufficient money is not available to fund a public school's participation in the Program pursuant to section 8 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page 3853, that public school is not required to participate in the Program.*

*Sec. 2. A public school which is not required by section 6 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page 3852, to participate in the Breakfast After the Bell Program but which is seeking a waiver for the purpose of participating in the Program pursuant to subsection 3 of section 8 of Senate Bill No. 503, chapter 544, Statutes of Nevada 2015, at page 3853, must submit to the State Department of Agriculture a grant application to*

*participate in the Program. The grant application must be made on the form made available by the Department on its Internet website at <https://breakfast.ny.gov>.*

## SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY

**NRS 233B.0608**

**LCB File # R082-15**

- 1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**
  - The provisions of the proposed regulations apply only to certain Nevada school districts. The regulations were available on the website of the Department of Agriculture, [www.agri.nv.gov](http://www.agri.nv.gov) and posted at the following locations:

Department of Agriculture

405 S. 21<sup>st</sup> Street

Sparks, NV 89431

Department of Agriculture

2300 McLeod Street

Las Vegas, NV 89104

Department of Agriculture

4780 E. Idaho Street

Elko, NV 89801

- 2. The manner in which the analyses was conducted.**
  - No analyses was conducted because these regulations do not apply to small businesses.
- 3. The estimated economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation:**
  - Does not apply.
- 4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**
  - Does not apply.
- 5. The estimated cost to the agency for enforcement of the proposed regulation.**
  - The Department estimates that the first year cost will be \$15,250.00, the second year is \$4,500.00. Thereafter the grant program is terminated.
- 6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**
  - There are no fees or fee increases pertaining to the proposed regulation.

**7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

- Does not apply.

**8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

- The proposed regulation does not apply to small businesses.

I certify that to the best of my knowledge or belief a concerted effort was made to determine the impact of this proposed regulation on small businesses and that the information contained in this statement is accurate.

A handwritten signature in black ink, appearing to read "James R. Barbee", is written over a horizontal dashed line.

James R. Barbee

Director

Nevada Department of Agriculture