

THE SEVENTY-FOURTH DAY

CARSON CITY (Thursday), April 21, 2005

Senate called to order at 11:10 a.m.

President pro Tempore Amodei presiding.

Roll called.

All present except Senator Tiffany, who was excused.

Prayer by the Chaplain, Pastor Stan Pesis.

Lord, You have given us eyes to see and ears to hear. But, in our task of crafting legislation, often those gifts by themselves are not enough. Grant us vision and understanding as we seek how to best govern Your people.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President pro Tempore and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 126, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which was referred Senate Bill No. 116, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Mr. President pro Tempore:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 84, 426, 463, 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 Senate Bill No. 414, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and rerefer to the Committee on Finance.

WARREN B. HARDY II, *Chair*

Mr. President pro Tempore:

Your Committee on Human Resources and Education, to which were referred Senate Bills Nos. 221, 254, 268, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Mr. President pro Tempore:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 92, 295, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 109, 453, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

Mr. President pro Tempore:

Your Committee on Taxation, to which were referred Senate Bills Nos. 127, 247, 356, 358, 388, 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MIKE MCGINNESS, *Chair*

Mr. President pro Tempore:

Your Committee on Transportation and Homeland Security, to which were referred Senate Bills Nos. 242, 269, 288, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 20, 2005

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 440; Senate Bill No. 94.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 70, 143, 315, 465, 469, 505.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 19.

DIANE KEETCH

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Beers.

For: Senate Joint Resolution No. 5.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3

Subsection 2 of Joint Standing Rule No. 14.3

With the following condition:

May only be passed out of house of origin on or before April 29, 2005.

Has been granted effective: April 21, 2005.

WILLIAM J. RAGGIO

Senate Majority Leader

RICHARD D. PERKINS

Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

By Senators McGinness, Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, Nolan, Raggio, Rhoads, Schneider, Tiffany, Titus, Townsend, Washington, Wiener; Assemblymen Sherer, Allen, Anderson, Angle, Arberry Jr., Atkinson, Buckley, Carpenter, Christensen, Claborn, Conklin, Denis, Gansert, Gerhardt, Giunchigliani, Goicoechea, Grady, Hardy, Hettrick, Hogan, Holcomb, Horne, Kirkpatrick, Koivisto, Leslie, Mabey, Manendo, Marvel, McClain, McCleary, Mortenson, Munford, Oceguela, Ohrenschall, Parks, Parnell, Perkins, Pierce, Seale, Sibley, Smith and Weber:

Senate Concurrent Resolution No. 20—Designating April 21, 2005, as Kiwanis Day in the State of Nevada.

WHEREAS, On January 21, 1915, the "Benevolent Order Brothers" was organized in Detroit, Michigan, with the goal of having "a mutual exchange of preferred treatment in professional and business dealings"; and

WHEREAS, The following year the name of the club was changed to "Kiwanis," a form of "Nunc Kee-wanis," an Otchipew Native American phrase which means "We make a noise," "We have a good time" or "We trade or advertise"; and

WHEREAS, The first Kiwanis clubs were organized to promote the exchange of business among the members, but soon a lively debate ensued between those who supported community service as the Kiwanis mission and those who supported the exchange of business, and by 1919, the service advocates won the debate; and

WHEREAS, The members of Kiwanis work toward six principles: (1) the primacy of spiritual values, (2) living by the Golden Rule, (3) adhering to high standards, (4) engendering strong citizenship, (5) building better communities through service, and (6) assisting in the formation of sound public opinion; and

WHEREAS, The Kiwanis District of California was organized in the fall of 1918, was joined by Nevada in 1923, welcomed the Hawaiian Division in 1950, with the approval of the Kiwanis International Board of Trustees, and became the California-Nevada-Hawaii District, CAL NEV HA, on January 1, 1951; and

WHEREAS, The State of Nevada is proud of its own divisions, which consist of Division 23 of Northern Nevada, Division 28 of Southern Nevada and Division 45 of Central Nevada, for their long history of service to communities in this State; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the Nevada Legislature hereby designate April 21, 2005, as Kiwanis Day in the State of Nevada in recognition of the hours, resources and creative energy generously contributed by the members of Kiwanis clubs throughout the State, the nation and the world in the dedicated service to their communities; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Governor Larry "Mac" McClelland and Governor-Elect Patti Barsotti, Lieutenant Governor Celia Culver and Lieutenant Governor-Elect Neil Atkinson of Division 23, Lieutenant Governor John Fenner and Lieutenant Governor-Elect Linda Marx of Division 28, and Lieutenant Governor Dan Nevin and Lieutenant Governor-Elect Ann Delahay of Division 45.

Senator McGinness moved the adoption of the resolution.

Remarks by Senators McGinness and Raggio.

Senator McGinness requested that the following remarks be entered in the Journal.

SENATOR MCGINNESS:

We all know the Kiwanis Clubs in our communities and the many good things that they do. We should also be aware that there are other service clubs like Lions, Rotary and Optimists, but the saying stands true that the Lions have the idea, the Kiwanians do the work and the Rotary takes the credit.

I have been a member of the Kiwanis for 30 years in Fallon. My father-in-law made it clear that my joining was a precursor to marrying his daughter. I get back more than I give because of their many community activities.

Kiwanis members throughout the State and the Country do many great things. They do many things for the community. Our club does holiday baskets, conducts fund raisers, and we assist with putting up playground equipment. I urge your adoption.

SENATOR RAGGIO:

We observe Kiwanis Day every session and on that day Bud Beasley was a guest at this Senate. He taught longer than any other teacher in this State. He was in his 90s when he died recently. I miss him because he would have been sitting at my desk today in honor of this day. He never missed this day in the Senate. He was a proud member of the Kiwanis Club and served for a long time.

Resolution adopted.

Senator McGinness moved that all rules be suspended and that Senate Concurrent Resolution No. 20 be immediately transmitted to the Assembly.

Motion carried unanimously.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 70.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 143.

Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Judiciary.

Remarks by Senator Nolan.

Motion carried.

Assembly Bill No. 315.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 440.

Senator Nolan moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 465.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 469.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 505.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Mr. President pro Tempore announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:25 a.m.

SENATE IN SESSION

At 11:30 a.m.

President pro Tempore Amodei presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 326 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Care.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 83.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 264.

Amend the bill as a whole by deleting sections 1 and 2 and adding a new section designated section 1, following the enacting clause, to read as follows:

"Section 1. NRS 241.033 is hereby amended to read as follows:

241.033 1. A public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person unless it has ~~given~~ :

(a) *Given* written notice to that person of the time and place of the meeting ~~[. Except as otherwise provided in subsection 2, the]~~ ; and

(b) *Received proof of service of the notice.*

2. *The written notice required pursuant to subsection 1:*

(a) *Except as otherwise provided in subsection 3, must be:*

~~[(a)]~~ (1) Delivered personally to that person at least 5 working days before the meeting; or

~~[(b)]~~ (2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting ~~[.~~

~~↪ A public body must receive proof of service of the notice required by this subsection before such a meeting may be held.~~

~~2.] ; and~~

(b) *Must include:*

(1) *A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and*

(2) *A statement of the provisions of subsection 4.*

3. The Nevada Athletic Commission is exempt from the requirements of ~~paragraphs (a) and (b)]~~ paragraph (a) of subsection ~~[1.]~~ 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

~~{3-}~~ 4. *If a public body holds a closed meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, that person may:*

(a) Attend any portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered by the public body; and

(b) Present testimony and written evidence to the public body during the closed meeting.

5. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person whose character, alleged misconduct, professional competence, or physical or mental health was considered at the meeting."

Amend the title of the bill by deleting the first through fifth lines and inserting:

"AN ACT relating to meetings of public bodies; requiring a public body to allow a person whose character, alleged misconduct, professional competence, or physical or mental health is being considered by the public body in a closed meeting to".

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes relating to conduct of closed meeting by public body to consider character, alleged misconduct, professional competence, or physical or mental health of person. (BDR 19-43)".

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 199.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 397.

Amend section 1, page 3, line 2, by deleting:

"2 to 78," and inserting: "1.1 to 65,".

Amend the bill as a whole by adding new sections designated sections 1.1 through 1.9, following section 1, to read as follows:

"Sec. 1.1. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 1.2 to 1.8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 1.2. *"Business" includes every business, trade and occupation.*

Sec. 1.3. *"Professional service" means any type of personal service that may legally be performed only pursuant to a license or certificate of registration.*

Sec. 1.4. *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

Sec. 1.5. *"Sign" means to affix a signature to a record.*

Sec. 1.6. *"Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.*

Sec. 1.7. *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 1.8. *"Street address" of a resident agent means the actual physical location in this State at which a resident agent is available for service of process.*

Sec. 1.9. *The provisions of NRS 87.010 to 87.430, inclusive, apply to a partnership:*

1. *Which was formed before July 1, 2006, and which does not voluntarily elect to be governed by the provisions of sections 2 to 65, inclusive, of this act; or*

2. *Which is formed on or after July 1, 2006, and which voluntarily elects to be governed by the provisions of NRS 87.010 to 87.430, inclusive."*

Amend sec. 2, page 3, line 4, by deleting *"This chapter"* and inserting: *"Sections 2 to 65, inclusive, of this act"*.

Amend sec. 3, page 3, line 6, by deleting *"this chapter,"* and inserting: *"sections 2 to 65, inclusive, of this act,"*.

Amend the bill as a whole by deleting sec. 4 and inserting:

"Sec. 4. (Deleted by amendment.)"

Amend the bill as a whole by deleting sec. 7 and inserting:

"Sec. 7. (Deleted by amendment.)"

Amend the bill as a whole by deleting sec. 13 and inserting:

"Sec. 13. (Deleted by amendment.)"

Amend the bill as a whole by deleting sec. 15 and inserting:

"Sec. 15. (Deleted by amendment.)"

Amend sec. 16, page 4, lines 40 and 41, by deleting *"this chapter"* and inserting: *"sections 2 to 65, inclusive, of this act"*.

Amend the bill as a whole by deleting sections 17 through 19 and inserting:

"Secs. 17-19. (Deleted by amendment.)"

Amend sec. 20, page 5, line 16, after *"act;"* by inserting *"or"*.

Amend sec. 20, page 5, by deleting lines 17 through 19 and inserting:

"5. An amendment or cancellation of any of the statements set forth in subsections 1 to 4, inclusive."

Amend the bill as a whole by deleting sec. 21 and inserting:

"Sec. 21. (Deleted by amendment.)"

Amend the bill as a whole by adding a new section designated sec. 23.5, following sec. 23, to read as follows:

"Sec. 23.5. *The provisions of sections 2 to 65, inclusive, of this act apply to a partnership:*

1. *Which was formed before July 1, 2006; or*
2. *Which is formed on or after July 1, 2006,*

↪ and which voluntarily elects to be governed by the provisions of sections 2 to 65, inclusive, of this act."

Amend sec. 24, page 6, lines 19 and 20, by deleting: *"this chapter governs"* and inserting: *"sections 2 to 65, inclusive, of this act, govern"*.

Amend sec. 24, page 7, by deleting lines 9 and 10 and inserting: *"partnership pursuant to NRS 87.560; or*

(j) Restrict rights of third parties pursuant to sections 2 to 65, inclusive, of this act."

Amend sec. 25, page 7, by deleting lines 11 through 13 and inserting:

"Sec. 25. 1. *Unless displaced by particular provisions of sections 2 to 65, inclusive, of this act, the principles of law and equity supplement the provisions of sections 2 to 65, inclusive, of this act.*

2. *If an obligation to pay interest arises pursuant to sections 2 to 65, inclusive, of this act"*

Amend sec. 26, page 7, lines 25, 28 and 31, by deleting *"this chapter."* and inserting: *"sections 2 to 65, inclusive, of this act."*

Amend sec. 26, page 7, line 35, by deleting *"this chapter"* and inserting: *"sections 2 to 65, inclusive, of this act"*.

Amend sec. 27, page 8, by deleting lines 1 through 17 and inserting:

"Sec. 27. *Except as otherwise provided in NRS 87.560, the law of the jurisdiction in which a partnership has its chief executive office governs relations among the partners and between the partners and the partnership."*

Amend sec. 28, page 8, line 18, by deleting *"this chapter"* and inserting: *"sections 2 to 65, inclusive, of this act"*.

Amend sec. 30, page 8, lines 29 and 30, by deleting *"this chapter,"* and inserting: *"sections 2 to 65, inclusive, of this act,"*

Amend sec. 30, page 8, line 31, by deleting *"this chapter."* and inserting: *"sections 2 to 65, inclusive, of this act."*

Amend sec. 38, page 13, lines 11 and 12, by deleting: *"vote required to become a registered limited-liability partnership"* and inserting: *"filing of a certificate of registration"*.

Amend sec. 43, page 16, line 7, by deleting *"this chapter;"* and inserting: *"sections 2 to 65, inclusive, of this act;"*

Amend sec. 44, page 16, line 34, by deleting *"this chapter"* and inserting: *"sections 2 to 65, inclusive, of this act"*.

Amend sec. 44, page 16, lines 37 and 38, by deleting *"this chapter"* and inserting: *"sections 2 to 65, inclusive, of this act"*.

Amend sec. 45, page 17, line 13, by deleting *"this chapter,"* and inserting: *"sections 2 to 65, inclusive, of this act,"*

Amend sec. 50, page 19, line 14, by deleting "*This chapter*" and inserting: "*Sections 2 to 65, inclusive, of this act*".

Amend sec. 55, page 23, by deleting lines 33 and 34 and inserting: "*business, the partnership is bound by an act of the*".

Amend sec. 56, page 24, lines 10 through 12, by deleting: "*or a surviving partnership under sections 66 to 73, inclusive, of this act,*".

Amend the bill as a whole by deleting sections 66 through 207 and the leadlines of repealed sections and adding new sections designated sections 66 through 79, following sec. 65, to read as follows:

Sec. 66. NRS 87.010 is hereby amended to read as follows:

87.010 ~~[This chapter]~~ *NRS 87.010 to 87.430, inclusive, and section 1.9 of this act* may be cited as the Uniform Partnership Act.

Sec. 67. NRS 87.020 is hereby amended to read as follows:

87.020 As used in ~~[this chapter]~~ *NRS 87.010 to 87.430, inclusive, and section 1.9 of this act*, unless the context otherwise requires:

1. "Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

2. ~~["Business" includes every trade, occupation or profession.~~

3.] "Conveyance" includes every assignment, lease, mortgage or encumbrance.

~~[4.]~~ 3. "Court" includes every court and judge having jurisdiction in the case.

~~[5.]~~ "Professional service" means any type of personal service which may legally be performed only pursuant to a license or certificate of registration.

~~6.]~~ 4. "Real property" includes land and any interest or estate in land.

~~[7.]~~ "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~8.]~~ 5. "Registered limited-liability partnership" means a partnership formed pursuant to an agreement governed by ~~[this chapter]~~ *NRS 87.010 to 87.430, inclusive, and section 1.9 of this act* for the purpose of rendering a professional service and registered pursuant to and complying with NRS 87.440 to 87.560, inclusive.

~~[9.]~~ "Sign" means to affix a signature to a record.

~~10.]~~ "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

~~11.]~~ "Street address" of a resident agent means the actual physical location in this State at which a resident agent is available for service of process.]

Sec. 68. NRS 87.030 is hereby amended to read as follows:

87.030 1. A person has "knowledge" of a fact within the meaning of ~~[this chapter]~~ *NRS 87.010 to 87.430, inclusive, and section 1.9 of this act* not

only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith.

2. A person has "notice" of a fact within the meaning of ~~{this chapter}~~ *NRS 87.010 to 87.430, inclusive, and section 1.9 of this act* when the person who claims the benefit of the notice:

- (a) States the fact to such person, or
- (b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

Sec. 69. NRS 87.040 is hereby amended to read as follows:

87.040 1. The rule that statutes in derogation of the common law are to be strictly construed ~~{shall have}~~ *has* no application to ~~{this chapter}~~ *NRS 87.010 to 87.430, inclusive, and section 1.9 of this act.*

2. The law of estoppel ~~{shall apply under this chapter}~~ *applies to NRS 87.010 to 87.430, inclusive, and section 1.9 of this act.*

3. The law of agency ~~{shall apply under this chapter}~~.

4. ~~This chapter shall be so~~ *applies to NRS 87.010 to 87.430, inclusive, and section 1.9 of this act.*

4. *The Uniform Partnership Act must be interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.*

5. ~~{This chapter}~~ *The provisions of NRS 87.010 to 87.430, inclusive, and section 1.9 of this act shall not be construed so as to impair the obligations of any contract existing on July 1, 1931, nor to affect any action or proceedings begun or right accrued before July 1, 1931.*

Sec. 70. NRS 87.050 is hereby amended to read as follows:

87.050 In any case not provided for in ~~{this chapter}~~ *NRS 87.010 to 87.430, inclusive, and section 1.9 of this act*, the rules of law and equity, including the law merchant, ~~{shall}~~ govern.

Sec. 71. NRS 87.060 is hereby amended to read as follows:

87.060 1. Except as otherwise provided in subsection 2, a partnership is an association of two or more persons to carry on as co-owners a business for profit, and includes a registered limited-liability partnership.

2. Any association formed under any other statute of this State, or any statute adopted by authority, other than the authority of this State, is not a partnership under ~~{this chapter}~~ *NRS 87.010 to 87.430, inclusive, and section 1.9 of this act*, unless the association would have been a partnership in this State before July 1, 1931. ~~{This chapter applies}~~ *The provisions of NRS 87.010 to 87.430, inclusive, and section 1.9 of this act apply to limited partnerships except in so far as the statutes relating to such partnerships are inconsistent with it.*

Sec. 72. NRS 87.110 is hereby amended to read as follows:

87.110 An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by ~~this~~

~~chapter~~ NRS 87.010 to 87.430, inclusive, and section 1.9 of this act is evidence against the partnership.

Sec. 73. NRS 87.250 is hereby amended to read as follows:

87.250 1. A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

2. The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of ~~this chapter~~ NRS 87.010 to 87.430, inclusive, and section 1.9 of this act and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs or next of kin.

Sec. 74. NRS 87.280 is hereby amended to read as follows:

87.280 1. On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

2. The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners; or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

3. Nothing in ~~this chapter~~ the provisions of NRS 87.010 to 87.430, inclusive, and section 1.9 of this act shall be held to deprive a partner of his

right, if any, under the exemption laws, as regards his interest in the partnership.

Sec. 75. NRS 88.635 is hereby amended to read as follows:

88.635 In any case not provided for in this chapter, the provisions of ~~chapter 87 of~~ NRS 87.010 to 87.430, inclusive, and section 1.9 of this act govern.

Sec. 76. NRS 89.200 is hereby amended to read as follows:

89.200 The provisions of chapter 87 of NRS ~~[(Uniform Partnership Act)]~~ do not apply to professional associations.

Sec. 77. The amendatory provisions of this act do not affect an action or proceeding commenced or right accrued before July 1, 2006.

Sec. 78. If a partnership formed before July 1, 2006, voluntarily elects to be governed by the provisions of sections 2 to 65, inclusive, of this act, the provisions of sections 2 to 65, inclusive, of this act relating to the liability of the partnership's partners to third parties apply to limit those partners' liability to a third party who had done business with the partnership within 1 year before the partnership's election to be governed by the provisions of sections 2 to 65, inclusive, of this act only if the third party knows or has received a notification of the partnership's election to be governed by the provisions of sections 2 to 65, inclusive, of this act.

Sec. 79. This act becomes effective on July 1, 2006."

Amend the title of the bill by deleting the second and third lines and inserting: "Partnership Act (1997) and providing for its applicability on a voluntary basis; and providing other matters".

Amend the summary of the bill to read as follows:

"SUMMARY—Adopts Uniform Partnership Act (1997) and provides for its applicability on voluntary basis. (BDR 7-358)".

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 216.

Bill read second time.

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

Amendment No. 386.

Amend the bill as a whole by deleting sections 1 through 8 and the text of the repealed section and adding new sections designated sections 1 through 17 and the text of repealed sections, following the enacting clause, to read as follows:

"Section 1. NRS 232.090 is hereby amended to read as follows:

232.090 1. The Department consists of the Director and the following divisions:

- (a) The Division of Water Resources.
- (b) The Division of State Lands.
- (c) The Division of Forestry.
- (d) The Division of State Parks.
- (e) The Division of Conservation Districts.
- (f) The Division of Environmental Protection.
- (g) ~~The Division of Water Planning.~~

~~(h)~~ Such other divisions as the Director may from time to time establish.

2. The State Environmental Commission, the State Conservation Commission, the Commission for the Preservation of Wild Horses, the Nevada Natural Heritage Program and the Board to Review Claims are within the Department.

Sec. 2. Chapter 540 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Section consists of the Chief and any other necessary personnel.*

2. *The Chief is appointed by the State Engineer and is in the unclassified service of the State.*

Sec. 3. NRS 540.021 is hereby amended to read as follows:

540.021 As used in this chapter:

1. ~~["Administrator"]~~ "Chief" means the ~~Administrator~~ Chief of the ~~Division~~ Section.

2. "Department" means the State Department of Conservation and Natural Resources.

3. "Division" means the Division of Water ~~Planning in the State Department of Conservation and Natural Resources~~ Resources of the Department.

4. "Section" means the Water Planning Section of the Division.

Sec. 4. NRS 540.031 is hereby amended to read as follows:

540.031 The ~~Division of~~ Water Planning Section of the ~~State Department of Conservation and Natural Resources~~ Division is hereby created.

Sec. 5. NRS 540.041 is hereby amended to read as follows:

540.041 1. The ~~Administrator~~ Chief:

(a) Must be selected with special reference to his training, experience, capability and interest in the field of water resource planning.

(b) ~~Except as otherwise provided in NRS 284.143, shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.~~

~~(c)~~ Shall coordinate the activities of the ~~Division~~ Section.

2. The ~~Administrator~~ Chief is responsible for the administration of all provisions of law relating to the functions of the ~~Division~~ Section.

3. The ~~Administrator~~ Chief, with the approval of the State Engineer, may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of his duties.

4. The ~~Administrator~~ *Chief, through the State Engineer*, shall, not later than the fifth calendar day of each regular session of the Legislature, submit to the Director of the Legislative Counsel Bureau for distribution to the Legislature a written report summarizing the actions of the ~~Division~~ *Section* taken pursuant to the provisions of NRS 540.051 ~~and 540.101~~ during the preceding biennium.

Sec. 6. NRS 540.051 is hereby amended to read as follows:

540.051 The ~~Division~~ *Section* shall:

1. ~~Provide political subdivisions and private enterprises in arid regions with information, alternatives and recommendations bearing upon regional shortages of water including feasible selections or courses of planning and action for acquiring additional water or for conserving water now available, or both.~~

2.] Include in its planning:

(a) ~~The investigation of new sources of water such as desalination, importation and conservation, and means of transporting existing water;~~

~~(b)~~ Recognition and protection of existing water rights consistent with chapters 533 and 534 of NRS; and

~~(c)~~ *(b)* Consideration of the factors relating to the quality of water in this State and the importance of considering the issues of quantity and quality simultaneously, but the State Environmental Commission and Division of Environmental Protection of the ~~State Department of Conservation and Natural Resources~~ *Department* retain full responsibility for the management of water quality.

~~3.— Evaluate previous studies and compile existing information to assist in determining the suitability of potential sites as facilities for the storage of water upstream.~~

~~4.— Develop forecasts of supply and demand for future needs.~~

~~5.— Advise the State Department of Conservation and Natural Resources and the Legislature concerning economic and social effects of water policy.~~

~~6.]~~2. Suggest to the Legislature changes in water policy which may be necessary to meet new requirements of law or of the people of the State.

~~7.— Cooperate with]~~

3. *Assist* the State Engineer in dealings with the Federal Government and other states, but the State Engineer is solely responsible for the allocation of water resources and litigation.

~~8.— Provide the Board for Financing Water Projects and the Director of the Department of Business and Industry with necessary technical and clerical assistance in financing water projects.]~~

4. *Review local and federal documents regarding water planning that are relevant to the use of water in Nevada, including, without limitation, local water and resource plans. Reviews conducted pursuant to this subsection must consider, without limitation:*

(a) The accuracy of information relating to water use and water planning;

(b) Compliance with the water law of this State; and

(c) General advice relating to water planning.

5. *Compile and update summarized data relating to hydrographic basins to support decisions that the State Engineer makes regarding such basins, and provide summarized information regarding such basins to the public. The Section shall cause to be generated and updated a summary for each hydrographic basin to show critical information regarding that basin, including, without limitation:*

(a) Whether the basin is designated;

(b) All appurtenant or associated studies related to the availability of water;

(c) Rulings and orders affecting new appropriations of water;

(d) The availability of crop and pumpage inventories;

(e) The availability of data regarding water levels; and

(f) Current commitments of water from the basin that are attributable to existing water rights.

↪ *The information described in this subsection must, insofar as practicable, be provided in an electronic format and made available on the website of the State Engineer on the Internet or its successor.*

6. *Upon request, provide technical assistance to the Board for Financing Water Projects created by NRS 349.957, including, without limitation, the review of letters of intent and applications for grants.*

7. *Promote water conservation by:*

(a) Consulting with suppliers of water concerning:

(1) Community water conservation plans; and

(2) The content and scope of water plans; and

(b) Reviewing plans for compliance with the applicable provisions of NRS 540.121 to 540.151, inclusive.

8. *Assist federal, state and local governments and the general public in obtaining information regarding water planning, the availability of water and issues relating to water rights.*

9. *Support activities in response to drought as provided for under the drought plan established for the State.*

10. *Administer the statewide program established for the management of floodplains.*

11. *Upon request, provide updates to local governments on water issues relevant to this State, changes in policy and the availability of new information concerning water resources.*

Sec. 7. NRS 540.061 is hereby amended to read as follows:

540.061 It is the intent of the Legislature, in accordance with the state policy set forth in NRS 540.011, to provide for the reporting of all projects to the ~~Administrator~~ Chief to ensure effective coordination by the State in its effort to plan water use.

Sec. 8. NRS 540.091 is hereby amended to read as follows:

540.091 1. A local governmental officer or agency that is required to approve a project shall file a report of each project the officer or agency approves on a form provided by the ~~Administrator~~ Chief.

2. Each report of an approved project must include:

- (a) The name and mailing address of the owner or developer of the project;
- (b) A legal description of the location of the project;
- (c) A description of the project, including a summary of the amount of water required annually for the project;
- (d) A statement concerning how the water will be supplied; and
- (e) If the water is self-supplied, the source of the water and identification of the water rights.

3. A local governmental officer or agency may require the owner or developer of an approved project to fill out the report.

4. The local governmental officer or agency shall file all reports for projects approved during a quarter of a calendar year on or before 15 days after the last day of the quarter. The local governmental officer or agency shall submit a fee with each report in the amount of \$75 plus 50 cents per acre-foot of water, or fraction thereof, required by the project. The local governmental officer or agency shall collect the fee from the owner or developer of the project, plus an additional administrative fee of \$10 which may be retained by the local government.

5. The ~~Administrator~~ Chief shall deposit all fees he receives pursuant to this section with the State Treasurer for credit to the State General Fund.

Sec. 9. NRS 540.111 is hereby amended to read as follows:

540.111 1. The Advisory Board on Water Resources Planning and Development, consisting of 15 members appointed by the Governor, is hereby created within the Division.

2. The Governor shall appoint to the Advisory Board:

- (a) ~~Six~~ Five members who are representatives of the governing bodies of the county with the largest population in the State and the cities in that county;
- (b) One member who is a representative of the largest water utility in the county with the largest population in the State;
- (c) Two members who are representatives of the county with the second largest population in the State and the cities in that county;
- (d) One member who is a representative of the largest water utility in the county with the second largest population in the State;
- (e) *One member who is a representative of the governing body of a county whose population is less than 50,000;*
- (f) One member who is representative of the general public; and
- ~~(f)~~ (g) Four members, each of whom represents a different one of the following interests:
 - (1) Farming;
 - (2) Mining;

- (3) Ranching; and
- (4) Wildlife.

↪ The Governor shall make the appointments required by this subsection so that at least ~~seven~~ *six* members of the Advisory Board are residents of the county with the largest population in the State, at least three members are residents of the county with the second largest population in the State and at least ~~three~~ *four* members are residents of a county whose population is less than 100,000.

3. The members of the Advisory Board serve at the pleasure of the Governor.

4. All vacancies on the Advisory Board must be filled in the same manner of appointment as the member who created the vacancy.

5. The members of the Advisory Board are entitled to receive a salary of \$60 for each day's attendance at a meeting of the Advisory Board and the travel and subsistence allowances provided by law for state officers and employees generally.

6. The Advisory Board shall, at its first meeting and annually thereafter, elect a Chairman from among its members.

7. The Advisory Board may meet at least once in each calendar quarter and at other times upon the call of the Chairman or a majority of the members.

8. A majority of the members of the Advisory Board constitutes a quorum. A quorum may exercise all of the powers and duties of the Advisory Board.

9. The Advisory Board shall:

(a) Advise the ~~Administrator~~ *Chief* on matters relating to the planning and development of water resources;

(b) Be informed on and interested in the administrative duties of the ~~Division~~ *Section* and any legislation recommended by the ~~Division~~ *Section*;

(c) Advise and make recommendations through the *Section and the Division* ~~and the State Department of Conservation and Natural Resources~~ to the Governor and the Legislature concerning policies for water planning ; and ~~the development of water resources in this State;~~

(d) Advise the ~~Administrator~~ *Chief* concerning the policies of the ~~Division~~ *Section* and areas of emphasis for the planning of water resources .
[; and

(e) ~~Review, and provide written recommendations to the Division regarding the plan developed pursuant to NRS 540.101.]~~

Sec. 10. NRS 540.131 is hereby amended to read as follows:

540.131 1. Except as otherwise provided in subsection 5, each supplier of water which supplies water for municipal, industrial or domestic purposes shall, on or before July 1, 1992, adopt a plan of water conservation based on the climate and the living conditions of its service area in accordance with the provisions of NRS 540.141 ~~[;]~~ , and shall update the plan pursuant to

paragraph (c) of subsection 4. The provisions of the plan must apply only to the supplier's property and its customers. The supplier of water ~~may request assistance from the Division to develop the plan.~~ shall submit the plan to the Section for review by the Section pursuant to subsection 3.

2. As part of the procedure of adopting a plan, the supplier of water shall provide an opportunity for any interested person, including, but not limited to, any private or public entity that supplies water for municipal, industrial or domestic purposes, to submit written views and recommendations on the plan.

3. The plan must be reviewed by the ~~Division~~ Section within 30 days after its submission and approved for compliance with this section before it is adopted by the supplier of water.

4. The plan:

(a) Must be available for inspection by members of the public during office hours at the offices of the supplier of water; ~~and~~

(b) May be revised from time to time to reflect the changing needs and conditions of the service area. Each such revision must be made available for inspection by members of the public ~~+~~; and

(c) Must be updated every 5 years and comply with the requirements of this section and NRS 540.141.

5. Suppliers of water:

(a) Who are required to adopt a plan of water conservation pursuant to this section; and

(b) Whose service areas are located in a common geographical area, may adopt joint plans of water conservation based on the climate and living conditions of that common geographical area. Such a plan must comply with the requirements of this section and NRS 540.141.

6. The board of county commissioners of a county, the governing body of a city and the town board or board of county commissioners having jurisdiction of the affairs of a town shall:

(a) Adopt any ordinances necessary to carry out a plan of conservation adopted pursuant to this section which applies to property within its jurisdiction;

(b) Establish a schedule of fines for the violation of any ordinances adopted pursuant to this subsection; and

(c) Hire such employees as it deems necessary to enforce the provisions of any ordinances it adopts pursuant to this subsection.

Sec. 11. NRS 540.141 is hereby amended to read as follows:

540.141 1. A plan or joint plan of water conservation submitted to the ~~Division~~ Section for review must include provisions relating to:

(a) Methods of public education to:

(1) Increase public awareness of the limited supply of water in this State and the need to conserve water.

(2) Encourage reduction in the size of lawns and encourage the use of plants that are adapted to arid and semiarid climates.

(b) Specific conservation measures required to meet the needs of the service area, including, but not limited to, any conservation measures required by law.

(c) The management of water to:

(1) Identify and reduce leakage in water supplies, inaccuracies in water meters and high pressure in water supplies; and

(2) ~~Increase~~ *Where applicable, increase* the reuse of effluent.

(d) A contingency plan for drought conditions that ensures a supply of potable water.

(e) A schedule for carrying out the plan.

(f) Measures to evaluate the effectiveness of the plan.

2. A plan or joint plan submitted for review must be accompanied by an analysis of the feasibility of charging variable rates for the use of water to encourage the conservation of water.

3. The ~~Division~~ *Section* shall review any plan or joint plan submitted to it within 30 days after its submission and approve the plan if it is based on the climate and living conditions of the service area and complies with the requirements of this section.

4. The ~~Administrator~~ *Chief* may exempt wholesale water purveyors from the provisions of this section which do not reasonably apply to wholesale supply.

Sec. 12. NRS 540.151 is hereby amended to read as follows:

540.151 1. Except as otherwise provided in subsection 5, each supplier of water which supplies water for municipal, industrial or domestic purposes shall adopt a plan to provide incentives:

(a) To encourage water conservation in its service area;

(b) To retrofit existing structures with plumbing fixtures designed to conserve the use of water; and

(c) For the installation of landscaping that uses a minimal amount of water.

↪ The supplier of water may request assistance from the ~~Division~~ *Section* to develop ~~the~~ *its* plan.

2. As part of the procedure of adopting a plan, the supplier of water shall provide an opportunity for any interested person to submit written views and recommendations on the plan.

3. The supplier of water shall file a copy of the plan with the ~~Division~~ *Section* for informational purposes.

4. The plan:

(a) Must be available for inspection by members of the public during office hours at the offices of the supplier of water; and

(b) May be revised from time to time to reflect the changing needs and conditions of the service area. Each such revision must be made available for inspection by members of the public.

5. Suppliers of water:

(a) Who are required to adopt a plan for incentives pursuant to this section; and

(b) Whose service areas are located in a common geographical area,
 ↪ may adopt joint plans.

Sec. 13. NRS 540A.090 is hereby amended to read as follows:

540A.090 In addition to the voting members, the commission includes the following nonvoting members:

1. One member appointed by the Public Utilities Commission of Nevada;
2. One member appointed by the *Consumer's Advocate* ~~[for Customers of Public Utilities]~~ *of the Bureau of Consumer Protection* in the Office of the Attorney General;
3. One member appointed by the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;
4. One member appointed by the State Engineer;
5. One member appointed by the ~~[Administrator]~~ *Chief* of the ~~[Division of]~~ *Water Planning Section of the Division of Water Resources* of the State Department of Conservation and Natural Resources;
6. One member appointed by the board of directors of the water conservancy district which is largest in area which includes any part of the region;
7. One member appointed by the county or district board of health;
8. One member of the public at large appointed by the affirmative vote of a majority of the voting members; and
9. Additional members with expertise in an area that the majority of the voting members determines is necessary, appointed by the affirmative vote of a majority of the voting members.

Sec. 14. NRS 232.137 and 540.101 are hereby repealed.

Sec. 15. As soon as practicable after July 1, 2005, the Governor shall:

1. Terminate the appointment of one of the six persons whom the Governor appointed to the Advisory Board on Water Resources Planning and Development pursuant to paragraph (a) of subsection 2 of NRS 540.111. The six existing members of the Board who were appointed pursuant to that paragraph shall draw lots to determine which member's appointment will be terminated.

2. Appoint to the Advisory Board on Water Resources Planning and Development a new member of the Board who is a representative of the governing body of a county whose population is less than 50,000, as described in paragraph (e) of subsection 2 of NRS 540.111, as amended.

Sec. 16. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 17. This act becomes effective on July 1, 2005.

TEXT OF REPEALED SECTIONS

232.137 Division of Water Planning: Composition; appointment of Administrator.

1. The Division of Water Planning consists of the Administrator and any other necessary personnel.

2. The Administrator is appointed by the Director and is in the unclassified service of the State.

540.101 Plan to provide guidance and coordination for development, management, conservation and use of water resources: Development; contents; no effect upon law of State; not binding upon certain state and local agencies; submission to Legislature.

1. The Division shall develop a plan to provide guidance and coordination for the development, management, conservation and use of water resources within the State.

2. The Division shall coordinate with local governments in developing the plan pursuant to subsection 1. Upon request of the Division, each local government shall cooperate with and assist the Division in the development of the plan.

3. The water plan developed pursuant to subsection 1 must include provisions designed to protect the identified needs for water for current and future development in the rural areas of the State, giving consideration to relevant factors, including, but not limited to, the economy of the affected areas and the quality of life in the affected areas.

4. The provisions of the plan developed pursuant to subsection 1 must not be construed to supersede, replace, amend or add to the law of the State of Nevada.

5. A state or local governmental agency:

(a) Shall consider the plan developed pursuant to subsection 1 when developing or implementing its mission, programs, plans and responsibilities regarding water resources; and

(b) Is not bound by a recommendation or provision of the plan developed pursuant to subsection 1 unless it formally adopts the recommendation or provision.

6. The Division shall submit to the Legislature for its review and consideration:

(a) The plan developed pursuant to subsection 1; and

(b) The recommendations regarding the plan provided to the Division by the advisory board on water resources planning and development pursuant to NRS 540.111.

7. As used in this section, "local government" means a political subdivision of this State, including, without limitation, a city, county, irrigation district, water district or water conservancy district."

Amend the title of the bill to read as follows:

"AN ACT relating to the administration of public agencies; eliminating the Division of Water Planning of the State Department of Conservation and Natural Resources; creating the Water Planning Section of the Division of Water Resources of the Department; transferring the former duties of the Division of Water Planning to the Water Planning Section; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Eliminates Division of Water Planning of State Department of Conservation and Natural Resources and transfers former duties of Division to newly created Water Planning Section. (BDR 18-469)".

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 226.

Bill read second time.

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

Amendment No. 295.

Amend the bill as a whole by deleting section 1, renumbering sec. 2 as sec. 6 and adding new sections designated sections 1 through 5, following the enacting clause, to read as follows:

"Section 1. NRS 616C.135 is hereby amended to read as follows:

616C.135 1. A provider of health care who accepts a patient as a referral for the treatment of an industrial injury or an occupational disease may not charge the patient for any treatment related to the industrial injury or occupational disease, but must charge the insurer. The provider of health care may charge the patient for any services that are not related to the employee's industrial injury or occupational disease.

2. The insurer is liable for the charges for approved services related to the industrial injury or occupational disease if the charges do not exceed:

(a) The fees established in accordance with NRS 616C.260 or the usual fee charged by that person or institution, whichever is less; and

(b) The charges provided for by the contract between the provider of health care and the insurer or the contract between the provider of health care and the organization for managed care.

3. A provider of health care may accept payment from an injured employee ~~[who is paying in protest]~~ or from a health or casualty insurer paying on behalf of the injured employee pursuant to NRS 616C.138 for

treatment or other services that the injured employee alleges are related to the industrial injury or occupational disease.

4. If a provider of health care, an organization for managed care, an insurer or an employer violates the provisions of this section, the Administrator shall impose an administrative fine of not more than \$250 for each violation.

Sec. 2. NRS 616C.138 is hereby amended to read as follows:

616C.138 ~~ff:~~

~~1. An~~

1. Except as otherwise provided in this section, if a provider of health care provides treatment or other services that an injured employee alleges are related to an industrial injury or occupational disease and an insurer, an organization for managed care, a third-party administrator or an employer who provides accident benefits for injured employees pursuant to NRS 616C.265 denies authorization or responsibility for payment for the treatment or other services [provided by a], the provider of health care [that the injured employee alleges are related to an industrial injury or occupational disease];

~~2. The] is entitled to be paid for the treatment or other services as follows:~~

(a) If the treatment or other services will be paid by a health insurer which has a contract with the provider of health care under a health benefit plan that covers the injured employee, the provider of health care is entitled to be paid the amount that is allowed for the treatment or other services under that contract.

(b) If the treatment or other services will be paid by a health insurer which does not have a contract with the provider of health care as set forth in paragraph (a) or by a casualty insurer or the injured employee, the provider of health care is entitled to be paid not more than:

(1) The amount which is allowed for the treatment or other services set forth in the schedule of fees and charges established pursuant to NRS 616C.260; or

(2) If the insurer which denied authorization or responsibility for the payment has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract.

2. The provisions of subsection 1 apply only to treatment or other services provided by the provider of health care before the date on which the insurer, organization for managed care, third-party administrator or employer who provides accident benefits first denies authorization or responsibility for payments for the alleged industrial injury or occupational disease.

3. If:

(a) The injured employee pays [in protest] for the treatment or other services [; and

~~3. A] or a health or casualty insurer pays for the treatment or other services on behalf of the injured employee;~~

~~(b) The injured employee requests a hearing before a hearing officer or appeals officer regarding the denial of coverage; and~~

~~(c) The hearing officer or appeals officer ultimately determines that the treatment or other services should have been covered, or the insurer, organization for managed care, third-party administrator or employer who provides accident benefits subsequently accepts responsibility for payment, the hearing officer or appeals officer shall order the insurer, organization for managed care, third-party administrator or employer who provides accident benefits to pay to the ~~provider of health care~~ injured employee or the health or casualty insurer the amount which the injured employee or the health or casualty insurer paid that is allowed for the treatment or other services set forth in the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract.~~

~~4. If the injured employee or the health or casualty insurer paid the provider of health care any amount in excess of the amount that the provider would have been entitled to be paid pursuant to this section, the injured employee or the health or casualty insurer is entitled to recover the excess amount from the provider. Within 30 days after receiving ~~the payment,~~ notice of such an excess amount, the provider of health care shall reimburse the injured employee or the health or casualty insurer for the excess amount. ~~paid in protest by him.]~~~~

~~5. As used in this section:~~

~~(a) "Casualty insurer" means any insurer or other organization providing coverage or benefits under a policy or contract of casualty insurance in the manner described in subsection 2 of NRS 681A.020.~~

~~(b) "Health benefit plan" means any type of policy, contract, agreement or plan providing health coverage or benefits in accordance with state or federal law.~~

~~(c) "Health insurer" means any insurer or other organization providing health coverage or benefits in accordance with state or federal law.~~

Sec. 3. NRS 616C.330 is hereby amended to read as follows:

616C.330 1. The hearing officer shall:

(a) Except as otherwise provided in subsection 2 of NRS 616C.315, within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after his receipt of the request at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the hearing officer;

(b) Give notice by mail or by personal service to all interested parties to the hearing at least 15 days before the date and time scheduled; and

(c) Conduct hearings expeditiously and informally.

2. The notice must include a statement that the injured employee may be represented by a private attorney or seek assistance and advice from the Nevada Attorney for Injured Workers.

3. If necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied, the hearing officer may refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee. If the medical question concerns the rating of a permanent disability, the hearing officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any medical examination requested by the hearing officer.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the hearing officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The hearing officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay *to the appropriate person* the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. The hearing officer may allow or forbid the presence of a court reporter and the use of a tape recorder in a hearing.

7. The hearing officer shall render his decision within 15 days after:

(a) The hearing; or

(b) He receives a copy of the report from the medical examination he requested.

8. The hearing officer shall render his decision in the most efficient format developed by the Chief of the Hearings Division of the Department of Administration.

9. The hearing officer shall give notice of his decision to each party by mail. He shall include with the notice of his decision the necessary forms for appealing from the decision.

10. Except as otherwise provided in NRS 616C.380, the decision of the hearing officer is not stayed if an appeal from that decision is taken unless an

application for a stay is submitted by a party. If such an application is submitted, the decision is automatically stayed until a determination is made on the application. A determination on the application must be made within 30 days after the filing of the application. If, after reviewing the application, a stay is not granted by the hearing officer or an appeals officer, the decision must be complied with within 10 days after the refusal to grant a stay.

Sec. 4. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay *to the appropriate person* the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. Any party to the appeal or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing.

The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

7. The appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

8. The appeals officer may affirm, modify or reverse any decision made by the hearing officer and issue any necessary and proper order to give effect to his decision.

Sec. 5. The provisions of this act do not apply to treatment or other services provided by a provider of health care to an injured employee before July 1, 2005."

Amend the title of the bill, fourth line, after "circumstances;" by inserting: "requiring an insurer, organization for managed care, third-party administrator or employer who improperly denies payment for certain treatment or other services for an injured employee to reimburse the injured employee directly under certain circumstances; requiring the direct reimbursement of certain health insurers and casualty insurers that pay for such treatment or other services on behalf of the injured employee; providing administrative penalties;"

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes to provisions governing payment of certain workers' compensation claims. (BDR 53-891)".

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 266.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 398.

Amend the bill as a whole by deleting sections 1 through 3 and adding a new section designated section 1, following the enacting clause, to read as follows:

"Section 1. NRS 11.500 is hereby amended to read as follows:

11.500 1. Notwithstanding any other provision of law, and except as otherwise provided in this section, if an action that is commenced within the applicable period of limitations is dismissed because the court lacked jurisdiction over the subject matter of the action, the action may be recommenced in the court having jurisdiction within:

(a) The applicable period of limitations; or

(b) Ninety days after the action is dismissed,
 ↪ whichever is later.

2. An action may be recommenced only one time pursuant to paragraph (b) of subsection 1.

3. An action may not be recommenced pursuant to paragraph (b) of subsection 1 more than 5 years after the date on which the original action was commenced.

4. Paragraph (b) of subsection 1 does not apply to a contract that is subject to the provisions of chapter 104 of NRS.

~~{5.—If an action is recommenced pursuant to paragraph (b) of subsection 1, any applicable findings of fact or conclusions of law entered by the court that dismissed the action shall be deemed binding in the action that is recommenced.}~~".

Amend the title of the bill to read as follows:

"AN ACT relating to limitation of actions; revising the provision governing the recommencement of an action dismissed for lack of subject matter jurisdiction; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Revises provision governing recommencement of actions dismissed for lack of subject matter jurisdiction. (BDR 2-732)".

Senator Care moved the adoption of the amendment.

Remarks by Senators Care and Schneider.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 280.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 467.

Amend the bill as a whole by deleting sections 1 and 2 and renumbering sec. 3 as section 1.

Amend sec. 3, page 3, line 2, by deleting "~~for hospital~~" and inserting "or hospital".

Amend sec. 3, page 3, line 7, by deleting "or" and inserting "~~or~~".

Amend sec. 3, page 3, line 8, after "(III)" by inserting: "*An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421; or*
 (IV)".

Amend sec. 3, page 3, line 24, by deleting "~~for hospital~~" and inserting "or hospital".

Amend sec. 3, page 4, line 2, by deleting "~~for hospital~~" and inserting "or hospital".

Amend the bill as a whole by deleting sections 4 and 5.

Amend the title of the bill to read as follows:

"AN ACT relating to mental health; authorizing certain entities which provide transportation services to transport an allegedly mentally ill person to a mental health facility or hospital to allow for an application for the emergency admission of the allegedly mentally ill person to be made; and providing other matters properly related thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Authorizes certain entities to transport allegedly mentally ill person to mental health facility or hospital for emergency admission. (BDR 39-1131)".

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 281.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 348.

Amend the bill as a whole by deleting sections 1 through 8 and adding new sections designated sections 1 through 3, following the enacting clause, to read as follows:

"Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Division of Health Care Financing and Policy shall determine for each hospital that is located in a county whose population is 100,000 or more the uncompensated care percentage of the hospital for the preceding fiscal year.*

2. *Based on the determinations made pursuant to subsection 1, the Division of Health Care Financing and Policy shall determine for each county whose population is 100,000 or more the arithmetic mean of the percentages determined pursuant to subsection 1 of all hospitals in the county.*

3. *Each hospital shall provide to the Division of Health Care Financing and Policy any information requested by the Division that the Division determines is necessary to make a determination pursuant to this section.*

4. *The Division of Health Care Financing and Policy shall at least once each year prepare and submit a report concerning the determinations it makes pursuant to this section to:*

(a) The Legislative Commission;

(b) The Interim Finance Committee; and

(c) The Legislative Committee on Health Care.

5. *As used in this section, "uncompensated care percentage" has the meaning ascribed to it in NRS 422.387.*

Sec. 2. NRS 422.380 is hereby amended to read as follows:

422.380 As used in NRS 422.380 to 422.390, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Disproportionate share payment" means a payment made pursuant to 42 U.S.C. § 1396r-4.

2. "Hospital" has the meaning ascribed to it in NRS 439B.110 and includes public and private hospitals.

3. "Public hospital" means:

(a) A hospital owned by a state or local government, including, without limitation, a hospital district; or

(b) A hospital that is supported in whole or in part by tax revenue, other than tax revenue received for medical care which is provided to Medicaid patients, indigent patients or other low-income patients.

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

Amend the title of the bill to read as follows:

"AN ACT relating to welfare; requiring the Division of Health Care Financing and Policy of the Department of Human Resources to determine and report certain information concerning the uncompensated care percentage for hospitals in larger counties; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Requires Division of Health Care Financing and Policy of Department of Human Resources to determine certain information concerning uncompensated care percentage for certain hospitals. (BDR 38-42)".

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 282.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 347.

Amend section 1, page 2, line 1, by deleting "209" and inserting "449".

Amend section 1, page 2, line 2, by deleting: "to 18, inclusive," and inserting "and 3".

Amend the bill as a whole by deleting sections 2 through 4 and renumbering sec. 5 as sec. 2.

Amend sec. 5, page 2, by deleting lines 15 and 16 and inserting:

"Sec. 2. 1. *Facility for transitional living for released offenders* means a residence that provides housing and a living".

Amend sec. 5, page 2, line 18, by deleting "community." and inserting: "community, other than such a residence that is operated or maintained by a state or local government or an agency thereof".

Amend sec. 5, page 2, line 20, by deleting: ", as defined in NRS 449.008." and inserting: "*or a facility for the treatment of abuse of alcohol or drugs.*"

2. *As used in this section, "person who has been released from prison" means:*

(a) *A parolee.*

(b) *A person who is participating in:*

(1) *A judicial program pursuant to NRS 209.4886 or 213.625; or*

(2) *A correctional program pursuant to NRS 209.4888 or 213.632.*

(c) *A person who is supervised by the Division of Parole and Probation of the Department of Public Safety through residential confinement pursuant to NRS 213.371 to 213.410, inclusive.*

(d) *A person who has been released from prison by expiration of his term of sentence."*

Amend the bill as a whole by deleting sections 6 through 17 and renumbering sec. 18 as sec. 3.

Amend sec. 18, page 6, by deleting lines 23 through 25 and inserting: "*provided by a facility for transitional living for released offenders must be certified by the Health Division in accordance with the*".

Amend the bill as a whole by renumbering sec. 19 as sec. 11 and adding new sections designated sections 4 through 10, following sec. 18, to read as follows:

"Sec. 4. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.019, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 449.0045 is hereby amended to read as follows:

449.0045 "Facility for the dependent" includes a facility for the treatment of abuse of alcohol or drugs, halfway house for recovering alcohol and drug abusers, *facility for transitional living for released offenders*, facility for the care of adults during the day or residential facility for groups.

Sec. 6. NRS 449.008 is hereby amended to read as follows:

449.008 "Halfway house for recovering alcohol and drug abusers" means a residence that provides housing and a living environment for *recovering* alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide any treatment for alcohol or drug abuse. *The term does not include a facility for transitional living for released offenders.*

Sec. 7. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act*, and for programs of hospice care.

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

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in

his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

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

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive [–] *and sections 2 and 3 of this act.*

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

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

(b) Residential facilities for groups,

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

3. The Board shall adopt separate regulations for:

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

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

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

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

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

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

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

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

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

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

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

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

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The regulations must prohibit a residential facility for groups from claiming that it provides "assisted living services" unless:

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

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

(1) Contain toilet facilities and a sleeping area or bedroom; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. NRS 449.050 is hereby amended to read as follows:

449.050 1. Except as otherwise provided in subsection 2, each application for a license must be accompanied by such fee as may be determined by regulation of the Board. The Board may, by regulation, allow or require payment of a fee for a license in installments and may fix the amount of each payment and the date that the payment is due.

2. A facility for the care of adults during the day is exempt from the fees imposed by the Board pursuant to this section.

3. *The fee imposed by the Board for a facility for transitional living for released offenders must be based on the type of facility that is being licensed and must be calculated to produce the revenue estimated to cover the costs related to the license, but in no case may a fee for a license exceed the actual cost to the Health Division of issuing or renewing the license.*

4. *If an application for a license for a facility for transitional living for released offenders is denied, any amount of the fee paid pursuant to this section that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.*

Sec. 9. NRS 40.770 is hereby amended to read as follows:

40.770 1. Except as otherwise provided in subsection ~~{5,}~~ 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property,

↪ is not material to the transaction.

2. In any sale, ~~lessor~~ lease or rental of real property, the fact that a sex offender, as defined in NRS 179D.400, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. *In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS is located near the property being sold, leased or rented is not material to the transaction.*

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, ~~or~~ 2 or 3 that is not material to the transaction or of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

~~{4,}~~ 5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and his agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, ~~or~~ 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

~~{5,}~~ 6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by a governmental entity.

7. *As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in section 2 of this act.*

Sec. 10. NRS 209.511 is hereby amended to read as follows:

209.511 1. When an offender is released from prison by expiration of his term of sentence, by pardon or by parole, the Director:

(a) May furnish him with a sum of money not to exceed \$100, the amount to be based upon the offender's economic need as determined by the Director;

(b) Shall give him notice of the provisions of chapter 179C of NRS and NRS 202.360;

(c) Shall require him to sign an acknowledgment of the notice required in paragraph (b);

(d) Shall give him notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155 or 213.157, as applicable;

(e) May provide him with clothing suitable for reentering society;

(f) May provide him with the cost of transportation to his place of residence anywhere within the continental United States, or to the place of his conviction; ~~and~~

(g) *May, but is not required to, release him to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS; and*

(h) Shall require him to submit to at least one test for exposure to the human immunodeficiency virus.

2. The costs authorized in paragraphs (a), (e), (f) and ~~(g)~~ (h) of subsection 1 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.

3. *As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in section 2 of this act."*

Amend sec. 19, page 6, lines 41 through 43, by deleting: "*Halfway house for persons who have been released from prison.*

(d)".

Amend sec. 19, page 7, lines 3 and 4, by deleting: "*a halfway house for persons who have been released from prison,*".

Amend sec. 19, page 8, by deleting lines 10 and 11 and inserting:

"(a) *"Facility for transitional living for released offenders" has the meaning ascribed to it in section 2 of this act."*

Amend sec. 19, page 8, by deleting lines 23 and 24 and inserting: "*or more, a facility for transitional living for released offenders, a halfway house for recovering alcohol and drug abusers or"*.

Amend the bill as a whole by deleting sec. 20 and renumbering sections 21 and 22 as sections 12 and 13.

Amend sec. 21, page 8, line 34, by deleting: "*9 and 12"* and inserting: "*1 to 11, inclusive,*".

Amend sec. 21, page 8, by deleting lines 35 through 39 and inserting: "*of this act, a person is not required to possess a license issued by the State*

Board of Health to operate or maintain a facility for transitional living for released offenders in this State before January 1, 2006, unless the Board".

Amend sec. 21, page 8, line 41, by deleting "section 9" and inserting: "the amendatory provisions of sections 1 to 10, inclusive,".

Amend sec. 22, page 8, line 42, by deleting "21" and inserting "12".

Amend sec. 22, page 9, line 1, by deleting "20," and inserting "11,".

Amend sec. 22, page 9, by deleting lines 4 through 14.

Amend the title of the bill to read as follows:

"AN ACT relating to residential facilities; prohibiting a person other than a state or local government or agency thereof from operating or maintaining a facility for transitional living for released offenders without licensure by the State Board of Health; providing that each alcohol and drug abuse program operated by such a facility must be certified by the Health Division of the Department of Human Resources; providing that such facilities are facilities for the dependent; revising the definition of "halfway house for recovering alcohol and drug abusers"; requiring the Board to adopt standards and regulations governing the licensure and operation of such facilities; authorizing the Board to impose fees for the issuance and renewal of a license to operate such a facility; providing that the fact that a facility for transitional living for released offenders is located near real property which is the subject of a sale, lease or rental is not material to the transaction and is not required to be disclosed by the seller, lessor or landlord; requiring the definition of "residential establishment" to include a facility for transitional living for released offenders; providing a penalty; and providing other matters properly relating thereto.".

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes concerning certain facilities for persons released from prison. (BDR 40-622)".

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 286.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 346.

Amend the bill as a whole by deleting section 1 and renumbering sec. 2 as section 1.

Amend sec. 2, page 2, line 21, before "The" by inserting "1.".

Amend sec. 2, page 2, line 25, by deleting "1." and inserting "(a)".

Amend sec. 2, page 2, line 27, by deleting "2. Be" and inserting:

"(b) Except as otherwise provided in subsection 2, be".

Amend sec. 2, page 2, line 28, by deleting "2007." and inserting "2008.".

Amend sec. 2, page 2, between lines 28 and 29, by inserting:

"2. The Clark County School District may apply to the Legislative Commission for an extension of the deadline set forth in paragraph (b) of subsection 1 if the district is unable to meet that deadline."

Amend the bill as a whole by deleting sec. 3 and renumbering sections 4 and 5 as sections 2 and 3.

Amend the title of the bill to read as follows:

"AN ACT relating to education; requiring the Clark County School District to construct a career and technical high school within a certain area of Clark County; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Requires Clark County School District to construct career and technical high school within certain area of Clark County. (BDR S-1228)".

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford, Raggio and Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 298.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 344.

Amend section 1, page 1, line 3, by deleting "*If*" and inserting:

"*1. Except as otherwise provided in subsection 2, if*".

Amend section 1, page 1, line 6, by deleting "*shall enter*" and inserting: "*may*:"

(a) *Enter*".

Amend section 1, page 2, line 4, by deleting "*Program*." and inserting: "*Program; or*

(b) *Automatically enroll in Medicaid persons whom the Social Security Administration determines are eligible for the Supplemental Security Income Program. Before enrolling such a person in Medicaid, the Director shall cause a notice to be sent to the person to confirm or deny whether the person wishes to be enrolled in Medicaid and to provide any other information deemed necessary by the Director.*

2. *The Director shall not enter into an agreement with the Commissioner of Social Security or automatically enroll persons in Medicaid pursuant to subsection 1 unless the Director and the Interim Finance Committee have determined that sufficient funds are available in this State for that purpose.*"

Amend the title of the bill to read as follows:

"AN ACT relating to welfare programs; authorizing the Director of the Department of Human Resources under certain circumstances to take certain

actions to facilitate the enrollment of certain persons in Medicaid; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Authorizes Director of Department of Human Resources under certain circumstances to take certain actions to facilitate enrollment of certain persons in Medicaid. (BDR 38-692)".

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Senator Raggio moved that Senate Bill No. 298 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 400.

Amend section 1, page 1, line 2, by deleting "8," and inserting "10,".

Amend sec. 2, page 1, line 4, by deleting "8," and inserting "10,".

Amend sec. 2, page 1, line 6, by deleting "6," and inserting "7,".

Amend the bill as a whole by deleting sections 3 through 10 and adding new sections designated sections 3 through 12, following sec. 2, to read as follows:

"Sec. 3. *"Claim" means any claim by or on behalf of a natural person, including any derivative or other claim arising therefrom asserted by or on behalf of a natural person, corporation, company, association, firm, partnership, society, joint-stock company or any other entity, including a private attorney general.*

Sec. 4. *"Food" has the meaning ascribed to it in section 321(f) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321(f).*

Sec. 5. *"Governmental entity" means a government, governmental agency or political subdivision of a government.*

Sec. 6. *"Knowing and willful violation of law" means that the conduct constituting the violation was:*

1. *Committed with the intent to deceive or injure a consumer or with actual knowledge that the conduct was injurious to consumers; and*

2. *Not required by any statute administered by a federal, state or local governmental agency or any regulation, order, rule or other pronouncement of a federal, state or local governmental agency.*

Sec. 7. *"Long-term consumption" means multiple instances of the consumption of food over a period of time.*

Sec. 8. 1. *Except as otherwise provided in subsection 2, a person or governmental entity who manufactures, packs, distributes, sells, markets or*

otherwise provides food to another person or governmental entity for consumption is immune from any civil action for any claim arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or a health condition generally known to result or likely to result from the cumulative effect of long-term consumption.

2. The immunity from any civil action provided pursuant to subsection 1 is not applicable to a claim arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or a health condition generally known to result or likely to result from the cumulative effect of long-term consumption if the claim is based on a knowing and willful violation of law related to adulterating, branding, manufacturing, marketing, distributing, advertising, labeling or selling food and the claimed injury was proximately caused by that violation.

Sec. 9. In any action in which it is alleged that the immunity provided pursuant to subsection 1 of section 8 of this act is not applicable:

1. The complaint initiating the action must state with particularity each element of the cause of action, including:

(a) The federal or state statute, regulation or other law that was allegedly violated;

(b) The facts that are alleged to constitute such a violation;

(c) The facts that are alleged to demonstrate that such a violation proximately caused the claimed injury; and

(d) Facts that are sufficient to support a reasonable inference that such a violation constituted a knowing and willful violation of law.

➤ For the purposes of applying the provisions of this subsection, the requirements shall be deemed to be part of the substantive law of this State and not merely requirements that are procedural in nature.

2. The obligation of any party or nonparty to make disclosures of any kind under any applicable rule or order, or to respond to requests for discovery of any kind, as well as all proceedings unrelated to adjudicating a motion to dismiss, must be stayed by the court before the time for filing a motion to dismiss and during the pendency of any such motion unless the court finds upon motion of any party that a disclosure or response to a particular request for discovery is necessary to preserve evidence.

Sec. 10. Nothing in the provisions of sections 2 to 10, inclusive, of this act shall be construed to:

1. Create any claim, right of action or civil liability that did not previously exist under the law of this State; or

2. Interfere with the exclusive or primary authority of any agency to find or declare violations of any law related to adulterating, branding, manufacturing, marketing, distributing, advertising, labeling or selling food.

Sec. 11. 1. Except as otherwise provided in subsection 2, the provisions of this act apply to an action filed before, on or after the effective date of this act, including any pending action.

2. The provisions of this act do not apply to any action for which a final judgment has been entered and for which no further appeal may be filed.

Sec. 12. This act becomes effective upon passage and approval."

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 341.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 402.

Amend section 1, page 2, line 4, by deleting: "before imposing sentence:" and inserting: "~~before imposing sentence:~~ *following the imposition of a sentence:*".

Amend section 1, page 2, by deleting lines 10 through 13 and inserting:

"(1) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is".

Amend section 1, pages 2 and 3, by deleting lines 21 through 24 on page 2 and lines 1 through 7 on page 3, and inserting:

"(4) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(5) The duty to notify immediately the appropriate local law".

Amend sec. 2, page 3, line 24, by deleting: "before imposing sentence:" and inserting: "~~before imposing sentence:~~ *following the imposition of a sentence:*".

Amend sec. 2, page 3, by deleting lines 30 through 33 and inserting:

"(1) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is".

Amend sec. 2, pages 3 and 4, by deleting lines 41 through 44 on page 3 and lines 1 through 7 on page 4, and inserting:

"(4) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(5) The duty to notify immediately the appropriate local law".

Amend sec. 3, page 4, line 35, after "(a)" by inserting: "*The person has complied with the requirements of the provisions of NRS 179D.350 to 179D.550, inclusive;*

(b)".

Amend sec. 3, page 4, line 39, by deleting "(b)" and inserting "~~[(b)]~~ (c)".

Amend sec. 13, page 11, line 24, by deleting "21," and inserting "17,".

Amend sec. 14, page 11, by deleting lines 26 through 28 and inserting:

"Sec. 14. *"Community notification website" means the website on the Internet established and maintained by the Department pursuant to NRS 179B.250.*"

Amend the bill as a whole by deleting sections 15 through 17 and renumbering sec. 18 as sec. 15.

Amend sec. 18, page 12, line 34, by deleting: "*Attorney General's Offender Information Website*" and inserting: "*community notification website*".

Amend the bill as a whole by deleting sec. 19 and renumbering sections 20 through 22 as sections 16 through 18.

Amend sec. 20, page 13, by deleting lines 10 through 28 and inserting:

"Sec. 16. *Any person who uses information obtained from the community notification website in violation of the provisions of NRS 179B.250 or section 15 of this act is liable:*

1. *In a civil action brought by or on behalf of a person injured by the violation, for damages, attorney's fees and costs incurred as the result of the violation; and*

2. *In a civil action brought in the name of the State of Nevada by the Attorney General, for a civil penalty not to exceed \$25,000 and for the costs of the action, including investigative costs and attorney's fees.*"

Amend sec. 21, page 13, by deleting lines 32 through 34 and inserting: "*involves the use of information obtained from the community notification website and which violates any provision of this section, NRS 179B.250 or section 15 or 16 of this act, the Attorney*".

Amend sec. 21, page 13, line 44, by deleting "20" and inserting "16".

Amend sec. 22, page 14, line 4, by deleting "~~[179B.140,] 179B.130,~~" and inserting "179B.140,".

Amend the bill as a whole by renumbering sections 23 and 24 as sections 21 and 22 and adding new sections designated sections 19 and 20, following sec. 22, to read as follows:

"Sec. 19. NRS 179B.100 is hereby amended to read as follows:

179B.100 "Requester" means a person who requests information from the ~~[program.]~~community notification website.

Sec. 20. NRS 179B.250 is hereby amended to read as follows:

179B.250 1. The Department shall ~~[, in a manner prescribed by the Director,]~~ establish and maintain within the Central Repository a ~~[program]~~ community notification website to provide the public with access to certain information contained in the statewide registry ~~[. The program may include, but is not limited to, the use of a secure website on the Internet or other electronic means of communication to provide the public with access to certain information contained in the statewide registry if such information is~~

~~made available and disclosed~~] in accordance with the procedures set forth in this section.

2. For each inquiry to the ~~[program,]~~ *community notification website*, the requester must provide:

- (a) The name of the subject of the search;
- (b) Any alias of the subject of the search;
- (c) The zip code of the residence, place of work or school of the subject of the search; or
- (d) Any other information concerning the identity or location of the subject of the search that is deemed sufficient in the discretion of the Department.

3. For each inquiry to the ~~[program,]~~ *community notification website* made by the requester, the Central Repository shall:

- (a) Explain the levels of notification that are assigned to sex offenders pursuant to NRS 179D.730; and
- (b) Explain that the Central Repository is prohibited by law from disclosing information concerning certain offenders, even if those offenders are listed in the statewide registry.

4. If an offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search, the Central Repository:

- (a) Shall disclose to the requester information concerning an offender who is assigned a *Tier 2 or Tier 3* level of notification.
- (b) ~~[Except as otherwise provided in this paragraph, may, in the discretion of the Department, disclose to the requester information concerning an offender who is assigned a Tier 2 level of notification. The Central Repository shall not disclose to the requester information concerning an offender who is assigned a Tier 2 level of notification if the offender:~~
 - ~~(1) Has been released from actual custody for 10 years or more; and~~
 - ~~(2) Has not been convicted of committing a sexual offense during the immediately preceding 10 years.~~

~~(c)~~ Shall not disclose to the requester information concerning an offender who is assigned a Tier 1 level of notification.

5. After each inquiry to the ~~[program,]~~ *community notification website* made by the requester, the Central Repository shall inform the requester that:

- (a) No offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search;
- (b) The search of the statewide registry has not produced information that is available to the public through the statewide registry;
- (c) The requester needs to provide additional information concerning the identity or location of the subject of the search before the Central Repository may disclose the results of the search; or
- (d) An offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of

the search. If a search of the statewide registry results in a match pursuant to this paragraph, the Central Repository ~~[-~~

~~(1) Shall inform the requester of the name or any alias of the offender and the zip codes of the residence, work place and school of the offender.~~

~~(2) Shall inform the requester of each offense for which the offender was convicted, describing each offense in language that is understandable to the ordinary layperson, and the date and location of each conviction.~~

~~(3) Shall inform the requester of the age of the victim and offender at the time of each offense.~~

~~(4) May, through the use of a secure website on the Internet or other electronic means of communication, provide the requester with a photographic image of the offender if such an image is available.~~

~~(5) Shall] shall provide the requester with the following information:~~

~~(1) The name of the offender and all aliases that the offender has used or under which the offender has been known.~~

~~(2) A complete physical description of the offender.~~

~~(3) A current photograph of the offender.~~

~~(4) The year of birth of the offender.~~

~~(5) The complete address of any residence at which the offender resides.~~

~~(6) The number of the street block, but not the specific street number, of any location where the offender is currently:~~

~~(I) A student, as defined in NRS 179D.110; or~~

~~(II) A worker, as defined in NRS 179D.120.~~

~~(7) The following information for each offense for which the offender has been convicted:~~

~~(I) The offense that was committed, including a citation to the specific statute that the offender violated.~~

~~(II) The court in which the offender was convicted.~~

~~(III) The name under which the offender was convicted.~~

~~(IV) The name and location of each penal institution, school, hospital, mental facility or other institution to which the offender was committed for the offense.~~

~~(V) The city, township or county where the offense was committed.~~

6. If a search of the statewide registry results in a match pursuant to paragraph (d) of subsection 5, the Central Repository shall not provide the requester with any ~~[other]~~ information that is included in the record of registration for the offender ~~[-~~

~~6.] other than the information required pursuant to paragraph (d) of subsection 5.~~

7. For each inquiry to the ~~[program,]~~ community notification website, the Central Repository shall maintain a log of the information provided by the requester to the Central Repository and the information provided by the Central Repository to the requester.

~~[7.]~~ 8. A person may not use information obtained through the ~~[program]~~ community notification website as a substitute for information relating to the

offenses listed in subsection 4 of NRS 179A.190 that must be provided by the Central Repository pursuant to NRS 179A.180 to 179A.240, inclusive, or another provision of law.

~~8.~~ 9. The provisions of this section do not prevent law enforcement officers, the Central Repository and its officers and employees, or any other person from:

(a) Accessing information in the statewide registry pursuant to NRS 179B.200;

(b) Carrying out any duty pursuant to chapter 179D of NRS; or

(c) Carrying out any duty pursuant to another provision of law."

Amend sec. 23, page 14, lines 8 and 9, by deleting: "*Attorney General's Offender Information Website,*" and inserting: "*community notification website,*".

Amend sec. 23, page 14, by deleting lines 28 through 40.

Amend sec. 24, pages 14 and 15, by deleting lines 43 through 45 on page 14 and lines 1 through 9 on page 15, and inserting:

"1. *The Central Repository shall, in accordance with the requirements of this section, share information concerning sex offenders and offenders convicted of a crime against a child with:*

(a) *The State Gaming Control Board to carry out the provisions of NRS 463.335 pertaining to the registration of a gaming employee who is a sex offender or an offender convicted of a crime against a child. The Central Repository shall, at least once each calendar month, provide the State Gaming Control Board with the name and other identifying information of each offender who is not in compliance with the provisions of this chapter, in the manner and form agreed upon by the Central Repository and the State Gaming Control Board.*

(b) *The Department of Motor Vehicles to carry out the provisions of section 38 of this act.*

2. *The information shared by the Central Repository pursuant to this section must indicate whether a sex offender or an offender convicted of a crime against a child is in compliance with the provisions of this chapter.*

3. *The Central Repository shall share information pursuant to*".

Amend the bill as a whole by deleting sections 25 through 30 and renumbering sec. 31 as sec. 23.

Amend sec. 31, page 22, lines 16 and 17, by deleting: "*the establishment or elimination of an additional residence or*".

Amend the bill as a whole by deleting sections 32 through 35 and renumbering sections 36 through 48 as sections 24 through 36.

Amend sec. 36, page 28, lines 24 and 25, by deleting: "*the establishment or elimination of an additional residence or*".

Amend sec. 37, page 30, by deleting lines 3 and 4 and inserting:

"4. *The existence of the community notification website*".

Amend sec. 47, page 37, by deleting lines 25 and 26 and inserting:

"(b) *Minor violation*" means a violation that does not constitute a major violation."

Amend the bill as a whole by deleting sec. 49 and renumbering sections 50 through 52 as sections 37 through 39.

Amend sec. 50, page 41, by deleting lines 1 and 2 and inserting: "commence or continue working as a gaming employee. Unless".

Amend sec. 50, page 41, lines 8 and 9, by deleting: "*except as otherwise provided in section 49 of this act and*".

Amend sec. 50, page 41, line 29, by deleting "~~and~~" and inserting "and".

Amend sec. 50, page 41, by deleting lines 31 through 33 and inserting: "of NRS 463.3351."

Amend sec. 50, page 42, by deleting lines 10 and 11 and inserting: "The system of records must be accessible by ~~licensees~~ :

(1) *Licensees* for the limited purpose of complying with subsection 2 ~~+~~ ; and

(2) *The Central Repository for Nevada Records of Criminal History for the limited purpose of complying with section 22 of this act.*"

Amend sec. 50, page 44, line 8, by deleting "this section" and inserting: "~~this section~~ subsections 1 to 15, inclusive,"

Amend sec. 50, page 44, between lines 37 and 38, by inserting:

"18. *If the Central Repository for Nevada Records of Criminal History, in accordance with the provisions of section 22 of this act, provides the Board with the name and other identifying information of a registered gaming employee who is not in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person that, unless he provides the Board with verifiable documentation confirming that he is currently in compliance with the provisions of chapter 179D of NRS within 15 days after receipt of such notice, the Board shall, notwithstanding any other provisions of this section, conduct a hearing for the purpose of determining whether the registration of the person as a gaming employee must be suspended for noncompliance with the provisions of chapter 179D of NRS.*

19. *Notwithstanding any other provisions of this section, if a person notified by the Board pursuant to subsection 18 does not provide the Board, within the 15 days prescribed therein, with verifiable documentation establishing that he is currently in compliance with the provisions of chapter 179D of NRS, the Chairman of the Board shall, within 10 days thereof, appoint a hearing examiner to conduct a hearing to determine whether the person is, in fact, not in compliance with the provisions of chapter 179D of NRS. The hearing examiner shall, within 5 days after the date he is appointed by the Chairman, notify the person of the date of the hearing. The hearing must be held within 20 days after the date on which the hearing examiner is appointed by the Chairman, unless administratively extended by the Chairman for good cause. At the hearing, the hearing examiner may take any testimony deemed necessary and shall render a*

decision sustaining or reversing the findings of the Central Repository for Nevada Records of Criminal History. The hearing examiner shall notify the person of his decision within 5 days after the date on which the decision is rendered. A failure of a person to appear at a hearing conducted pursuant to this section shall be deemed to be an admission that the findings of the hearing examiner are well founded.

20. If, after conducting the hearing prescribed in subsection 19, the hearing examiner renders a decision that the person who is the subject of the hearing:

(a) Is not in compliance with the provisions of chapter 179D of NRS, the Board shall, notwithstanding any other provisions of this section:

(1) Suspend the registration of the person as a gaming employee;

(2) Notify the person to contact the Central Repository for Nevada Records of Criminal History to determine the actions that he must take to be in compliance with the provisions of chapter 179D of NRS; and

(3) Notify the licensee for which the person is employed as a gaming employee, in the manner prescribed in subsection 21, that the Board has suspended the registration of the person as a gaming employee and that the licensee must immediately terminate the person from employment or reassign him to a position that does not require registration as a gaming employee.

(b) Is in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person and the Central Repository for Nevada Records of Criminal History, in the manner prescribed in subsection 21, of the findings of the hearing examiner.

21. Notice as provided pursuant to subsections 18, 19 and 20 is sufficient if it is mailed to the person's last known address as indicated on the most recent application for registration as a gaming employee or the record of the hearing, or to the person at his place of gaming employment. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

22. The Board shall remove a suspension entered in accordance with subsection 20 and reinstate the registration of a person as a gaming employee upon receipt of verifiable documentation confirming that the person is currently in compliance with the provisions of chapter 179D of NRS."

Amend sec. 51, pages 44 and 45, by deleting lines 43 through 45 on page 44 and lines 1 through 14 on page 45, and inserting:

"identification card of an offender until the Department has received information submitted by the Central Repository pursuant to section 22 of this act or other satisfactory evidence indicating that the offender is in compliance with the provisions of chapter 179D of NRS.

2. If an offender is not in compliance with the"

Amend sec. 51, page 45, line 23, by deleting "4." and inserting "3."

Amend sec. 51, page 45, line 30, by deleting "5." and inserting "4".

Amend sec. 51, page 45, line 32, by deleting "6." and inserting "5".

Amend sec. 52, page 47, line 35, by deleting "51" and inserting "38".

Amend the bill as a whole by deleting sec. 53 and renumbering sec. 54 as sec. 40.

Amend sec. 54, page 49, line 37, by deleting "51" and inserting "38".

Amend the bill as a whole by deleting sec. 55 and renumbering sec. 56 as sec. 41.

Amend sec. 56, page 51, by deleting lines 14 and 15 and inserting:

"inclusive, and who is not ineligible to receive an identification card pursuant to section 38 of this act, is entitled to receive an identification card if he".

Amend sec. 56, page 51, by deleting line 22 and inserting "2. The".

Amend sec. 56, page 51, by deleting lines 39 through 43 and inserting:

"3. The Department shall not charge a fee for:".

Amend sec. 56, page 52, line 3, by deleting "~~4.~~ 5." and inserting "4".

Amend sec. 56, page 52, line 5, by deleting "~~5.~~ 6." and inserting "5".

Amend the bill as a whole by deleting sec. 57 and renumbering sec. 58 as sec. 42.

Amend sec. 58, page 52, line 36, by deleting "51" and inserting "38".

Amend the bill as a whole by deleting sec. 59 and renumbering sections 60 and 61 as sections 43 and 44.

Amend sec. 60, page 54, by deleting lines 40 and 41 and inserting:

"4. *Not be ineligible to be issued a commercial driver's license pursuant to section 38 of this act; and*".

Amend sec. 61, page 55, by deleting lines 7 and 8 and inserting:

"Sec. 44. NRS 179B.080 is hereby repealed."

Amend the bill as a whole by deleting sections 62 through 64 and renumbering sec. 65 as sec. 45.

Amend sec. 65, page 56, by deleting line 12 and inserting:

"Sec. 45. 1. This section and sections 3, 4 and 27 to 36, inclusive, of this act become effective on July 1, 2005.

2. Sections 1, 2, 5 to 26, inclusive, and 37 to 44, inclusive, of this act become effective on July 1, 2006."

Amend the bill as a whole by deleting the leadlines of repealed sections and adding the text of the repealed section to read as follows:

"

TEXT OF REPEALED SECTION

179B.080 "Program" defined. "Program" means the program established within the Central Repository pursuant to NRS 179B.250 to provide the public with access to certain information contained in the statewide registry."

Amend the title of the bill to read as follows:

"AN ACT relating to offenders; revising the provisions concerning requirements for providing certain notices and information relating to sex

offenders and offenders convicted of a crime against a child; revising the provisions pertaining to lifetime supervision of sex offenders; providing that the court must require a sex offender to consent to warrantless searches as a condition of probation or suspension of sentence under certain circumstances; allowing an employer to obtain certain information concerning sex offenders and offenders convicted of a crime against a child from the Central Repository for Nevada Records of Criminal History; requiring the Central Repository to provide certain information to nonprofit organizations without charge; requiring the Department of Public Safety to establish and maintain a community notification website to provide certain information to the public concerning certain sex offenders; clarifying the standard for determining whether a juvenile sex offender will be subject to registration and community notification as an adult sex offender; revising and increasing the penalties for certain sexual offenses; excluding sex offenders and offenders convicted of a crime against a child from participation in a program of sentencing diversion for alcoholics and drug addicts; providing that sex offenders and offenders convicted of a crime against a child may not renew their drivers' licenses, commercial drivers' licenses or identification cards if they are not in compliance with the requirements concerning offender registration; providing that sex offenders and offenders convicted of a crime against a child must renew their drivers' licenses, commercial drivers' licenses or identification cards annually; providing for suspension of the registration as a gaming employee of a sex offender or offender convicted of a crime against a child who is not in compliance with the requirements concerning offender registration; making various other changes pertaining to sex offenders and offenders convicted of a crime against a child; providing penalties; and providing other matters properly relating thereto."

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Carlton and Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 353.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 404.

Amend sec. 2, page 1, between lines 12 and 13, by inserting:

"4. *A trust company, as defined in NRS 669.070.*

5. *A court-appointed attorney licensed to practice law in this State.*"

Amend sec. 3, page 1, line 15, by deleting "guardian." and inserting: "*guardian unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian be a registered guardian or master guardian.*"

Amend sec. 3, page 2, line 4, by deleting "entity." and inserting: "*entity unless a hearing is held and the court finds that good cause exists to waive*

the requirement that the private professional guardian have a registered guardian or master guardian involved in the day-to-day operation or management of the entity."

Amend sec. 5, page 3, line 11, after "act." by inserting: "*If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.*".

Amend the bill as a whole by renumbering sections 7 through 9 as sections 8 through 10 and adding a new section designated sec. 7, following sec. 6, to read as follows:

"Sec. 7. NRS 159.061 is hereby amended to read as follows:

159.061 1. The parents of a minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the minor. The appointment of a parent as a guardian of the person must not conflict with a valid order for custody of the minor. In determining whether the parents of a minor, or either parent, is qualified and suitable, the court shall consider, without limitation:

- (a) Which parent has physical custody of the minor;
- (b) The ability of the parents or parent to provide for the basic needs of the child, including, without limitation, food, shelter, clothing and medical care;
- (c) Whether the parents or parent has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS; and
- (d) Whether the parents or parent has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the exploitation of a child.

2. Subject to the preference set forth in subsection 1, the court shall appoint as guardian for an incompetent, a person of limited capacity or minor the qualified person who is most suitable and is willing to serve.

3. In determining who is most suitable, the court shall give consideration, among other factors, to:

- (a) Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.
- (b) Any nomination of a guardian for an incompetent, minor or person of limited capacity contained in a will or other written instrument executed by a parent or spouse of the proposed ward.
- (c) Any request for the appointment as guardian for a minor 14 years of age or older made by the minor.
- (d) The relationship by blood, adoption or marriage of the proposed guardian to the proposed ward. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the

whole blood. The court may consider relatives in the following order of preference:

- (1) Spouse.
- (2) Adult child.
- (3) Parent.
- (4) Adult sibling.
- (5) Grandparent or adult grandchild.
- (6) Uncle, aunt, adult niece or adult nephew.

(e) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(f) Any request for the appointment of any other interested person that the court deems appropriate.

4. If the court finds that there is no suitable person to appoint as guardian pursuant to subsection 3, the court may appoint as guardian:

(a) The public guardian of the county where the ward resides, if:

- (1) There is a public guardian in the county where the ward resides; and
- (2) The proposed ward qualifies for a public guardian pursuant to chapter 253 of NRS; ~~or~~

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the ward will be served appropriately by the appointment of a private fiduciary ~~[-]~~; *or*

(c) A private professional guardian who meets the requirements of section 3 of this act."

Amend the title of the bill, fourth line, after "circumstances;" by inserting: "expanding the list of guardians who may be appointed by the court for a minor under certain circumstances;"

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 408.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 425.

Amend the bill as a whole by deleting sec. 2.

Amend the title of the bill by deleting the third and fourth lines and inserting "furnished; and".

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 265.

Amend section 1, page 2, by deleting lines 20 through 40 and inserting:

"4. ~~[Each]~~ *Except as otherwise provided in subsections 6 and 7, a public body ~~[may]~~ shall, for each of its meetings, whether public or closed, record the meeting on audiotape or ~~[any other]~~ another means of sound reproduction ~~[each of its meetings, whether public or closed.]~~ or cause the meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS. If a public body makes an audio recording of a meeting ~~[is so recorded]:~~*

~~(a) The record ~~must~~~~ *or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:*

~~(a)~~ *Must be retained by the public body for at least 1 year after the adjournment of the meeting at which it was recorded ~~[-~~*

~~(b) The record of a public meeting]~~ *or transcribed.*

~~(b)~~ *Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the ~~[record]~~ recording or transcript is retained ~~[-~~*

~~↪ Any record made pursuant to this subsection ~~must~~~~; *and*

~~(c)~~ *Must be made available to the Attorney General upon request.*

5. ~~[If a public body elects to record a public meeting pursuant to the provisions of subsection 4,]~~ *Except as otherwise provided in subsections 6 and 7, any portion of ~~[that]~~ a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any ~~[record]~~ recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.*

6. *A public body is not required to make an audio recording of a meeting or cause a meeting to be transcribed if the public body does not have sufficient money to conduct such activities.*

7. *If a public body makes a good faith effort to comply with the provisions of subsections 4 and 5 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter."*

Amend sec. 2, page 3, line 12, by deleting "recordings" and inserting "recordings, transcripts".

Amend sec. 3, page 3, line 31, after "recordings" by inserting "or transcripts".

Amend sec. 4, page 4, line 5, after "recordings" by inserting "or transcripts".

Amend sec. 5, page 4, lines 20 and 34, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 6, page 5, line 16, after "*recording*" by inserting "*or transcript*".

Amend sec. 7, page 5, line 27, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 7, page 5, line 32, by deleting "*recordings*" and inserting "*recordings, transcripts*".

Amend sec. 8, page 5, line 45, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 9, page 6, line 21, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 10, page 6, line 30, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 11, page 6, line 41, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 11, page 6, line 43, by deleting: "*and audio recordings*" and inserting: "*, audio recordings and transcripts*".

Amend sec. 12, page 7, line 17, by deleting "*recordings*" and inserting "*recordings, transcripts*".

Amend sec. 13, page 7, line 25, by deleting "*recordings*" and inserting "*recordings, transcripts*".

Amend sec. 14, page 7, line 36, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 14, page 7, line 40, by deleting "*recordings*" and inserting "*recordings, transcripts*".

Amend sec. 15, page 8, line 21, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 16, page 8, line 34, after "*recording*" by inserting "*or transcript*".

Amend sec. 16, page 8, line 39, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 17, page 9, line 9, after "*recording*" by inserting "*or transcript*".

Amend sec. 18, page 9, line 26, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 19, page 9, line 39, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 20, page 10, line 6, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 21, page 10, by deleting lines 33 through 36 and inserting: "*Board, and audio recordings or transcripts of all meetings of the Board and file the minutes and audio recordings or transcripts with the Welfare Division. ~~The~~ Except as otherwise provided in NRS 241.035, the minutes and audio recordings or transcripts must be maintained as public records.*".

Amend sec. 22, page 11, line 19, after "*recording*" by inserting "*or transcript*".

Amend sec. 23, page 12, line 10, after "*recording*" by inserting "*or transcript*".

Amend sec. 24, page 12, line 22, after "*recording*" by inserting "*or transcript*".

Amend sec. 24, page 12, lines 25 and 35, by deleting "*recordings*" and inserting "*recordings, transcripts*".

Amend sec. 25, page 13, line 3, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 26, page 13, line 12, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 27, page 13, line 22, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 28, page 13, line 34, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 29, page 14, line 8, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 30, page 14, line 27, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 31, page 14, line 38, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 32, page 15, by deleting lines 23 and 24 and inserting: "*audio recordings or transcripts of all meetings and , except as otherwise provided in NRS 241.035, the records , ~~and~~ minutes , audio recordings and transcripts*".

Amend sec. 33, page 16, line 8, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 34, page 16, line 31, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 34, page 16, line 36, by deleting "*recordings*" and inserting "*recordings, transcripts*".

Amend sec. 35, page 17, line 8, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 36, page 17, line 38, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 36, page 17, line 43, by deleting "*recordings*" and inserting "*recordings, transcripts*".

Amend sec. 37, page 18, line 29, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 37, page 18, line 34, by deleting "*recordings*" and inserting "*recordings, transcripts*".

Amend sec. 38, page 19, line 37, after "*recordings*" by inserting "*or transcripts*".

Amend sec. 39, page 20, line 16, after "recordings" by inserting "or transcripts".

Amend sec. 40, page 20, line 34, after "recordings" by inserting "or transcripts".

Amend the title of the bill by deleting the third and fourth lines and inserting: "retain an audio recording or transcript of each meeting, whether or not the meeting is public or closed; providing certain exceptions; and providing other".

Amend the summary of the bill to read as follows:

"SUMMARY—Requires, with certain exceptions, public bodies subject to Open Meeting Law to make audio recordings or transcripts of their meetings. (BDR 19-99)".

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 422.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 423.

Amend sec. 10, page 3, lines 22 and 23, by deleting "2, ~~the~~" and inserting: "2 ~~[, the]~~ or 3,".

Amend sec. 10, page 3, line 41, after "3." by inserting: "*A board of county commissioners shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.*

4.".

Amend sec. 10, page 4, line 1, by deleting "4." and inserting "~~[4.]~~ 5.".

Amend sec. 10, page 4, line 9, by deleting "5." and inserting "~~[5.]~~ 6.".

Amend sec. 10, page 4, line 13, by deleting: "in the following manner:" and inserting: ": ~~[in the following manner:]~~".

Amend sec. 10, page 4, line 28, by deleting "6." and inserting "~~[6.]~~ 7.".

Amend sec. 14, page 6, lines 25 and 26, by deleting "3, ~~the~~" and inserting: "3 ~~[, the]~~ or 4,".

Amend sec. 14, page 6, between lines 38 and 39, by inserting:

"4. *A city council shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number*

of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS."

Amend the bill as a whole by renumbering sec. 27 as sec. 28 and adding a new section designated sec. 27, following sec. 26, to read as follows:

"Sec. 27. NRS 268.095 is hereby amended to read as follows:

268.095 1. The city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in *subsection 2 and* NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. *The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of*

contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

~~{3-}~~ 4. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of NRS 360.780. The city licensing agency shall provide upon request an application for a business license pursuant to NRS 360.780.

~~{4-}~~ 5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

~~{5-}~~ 6. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced : ~~{in the following manner:}~~

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

- (1) The amount of tax due and the appropriate year;
- (2) The name of the record owner of the property;
- (3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

~~{6-}~~ 7. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation

of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation for the exchange of information concerning taxpayers.

~~{7.}~~ 8. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one."

Amend the title of the bill, eighth line, after "certificate;" by inserting: "prohibiting the governing body of a local government from requiring that a person who is licensed as a contractor obtain more than one business license or pay more than one license tax relating to engaging in the business of contracting;"

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes relating to regulation of businesses and occupations by governing body of local government. (BDR 20-533)".

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 432.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 363.

Amend section 1, page 2, line 40, by deleting the period.

Amend section 1, page 2, line 45, after "~~paid.~~" by inserting: "*policy, unless that policy was purchased:*

(1) *Within 1 year before the date on which the judgment debtor files a voluntary petition for bankruptcy or is adjudged an involuntary bankrupt; or*

(2) *With the intent to hinder, delay or defraud any creditor.*".

Amend the title of the bill, third line, by deleting "arising" and inserting "accruing".

Amend the summary of the bill to read as follows:

"SUMMARY—Revises exemption from execution of certain money, benefits, privileges or immunities accruing or growing out of life insurance. (BDR 2-1316)".

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 459.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 233.

Amend section 1, page 1, line 5, by deleting: "*at least 9 hours of*".

Amend the bill as a whole by adding a preamble, immediately preceding the enacting clause, to read as follows:

"WHEREAS, Personal financial responsibility and a basic understanding of the management of personal debt is a key element for the success of a person; and

WHEREAS, Teenagers represent a significant segment of the consuming public and the average credit card debt of teenagers increased by 300 percent during the 1990-2000 decade; and

WHEREAS, Nationally less than 40 percent of high school students receive any type of formal financial education; and

WHEREAS, The average score nationwide of 12th graders on a personal financial basic skills test was 52 percent; and

WHEREAS, The Legislature recognizes that April is National Financial Literacy for Youth Month, which includes both nationwide and statewide events and activities that highlight the importance of financial literacy programs in education; and

WHEREAS, The Legislature recognizes that on April 26, 2005, Nevada will participate in the National Teach Children to Save Day; and

WHEREAS, The American Bankers Association and the American Financial Services Association and other financial institutions have developed educational programs concerning financial responsibility for use in the public schools; and

WHEREAS, The Legislature recognizes and encourages the personal financial education programs offered for use in the public schools, which are available through the efforts of organizations such as the Nevada Bankers Association and the Nevada Consumer Finance Association; and

WHEREAS, It would be beneficial to the residents of the State of Nevada to become aware of and support the services and benefits offered by personal financial education programs; now, therefore,".

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Mathews.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 467.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 261.

Amend section 1, page 1, line 5, by deleting "*and*" and inserting "*or*".

Amend the bill as a whole by deleting sections 2 and 3 and inserting:

"Secs. 2 and 3. (Deleted by amendment)."

Amend the bill as a whole by adding a new section designated sec. 4.5, following sec. 4, to read as follows:

"Sec. 4.5. NRS 338.1378 is hereby amended to read as follows:

338.1378 1. Before a ~~{governing body}~~ *local government* accepts applications pursuant to NRS 338.1379, the ~~{governing body}~~ *local government* must, in accordance with subsection 2, advertise in a newspaper that is:

(a) Qualified pursuant to the provisions of chapter 238 of NRS; and

(b) Published in a county in which the contracts for the potential public works will be performed or, if no qualified newspaper is published in that county, published in a qualified newspaper that is published in the State of Nevada and which has a general circulation in the county in which the contracts for the potential public works will be performed.

2. An advertisement required pursuant to subsection 1:

(a) Must be published at least once not less than 21 days before applications are to be submitted to the ~~{governing body;}~~ *local government*; and

(b) Must include:

(1) A description of the potential public works for which applications to qualify as a bidder are being accepted;

(2) The time and place at which applications are to be submitted to the ~~{governing body;}~~ *local government*;

(3) The place at which applications may be obtained; and

(4) Any other information that the ~~{governing body}~~ *local government* deems necessary."

Amend sec. 5, page 7, line 22, by deleting "governing body." and inserting: "~~{governing body.}~~ *local government*."

Amend sec. 5, page 7, lines 24, 30 and 35, by deleting "governing body" and inserting: "~~{governing body}~~ *local government*".

Amend sec. 5, page 7, by deleting line 41 and inserting "*local government*."

Amend sec. 5, page 8, lines 1 and 6, by deleting "governing body" and inserting: "~~{governing body}~~ *local government*".

Amend sec. 6, page 8, line 14, by deleting "governing body," and inserting: "~~{governing body.}~~ *local government*,".

Amend sec. 6, page 8, by deleting lines 20 and 21 and inserting: "the Board or ~~{governing body.}~~ *local government*. At least 10 days before the

date set for the hearing, the Board or ~~{governing body}~~ *local government* shall serve the applicant or".

Amend sec. 7, page 9, lines 13 and 22, by deleting "~~[\$100,000]~~ \$250,000" and inserting "\$100,000".

Amend sec. 8, page 11, lines 13 and 22, by deleting "~~[\$100,000]~~ \$250,000" and inserting "\$100,000".

Amend the bill as a whole by deleting sections 9 through 11 and inserting: "Secs. 9-11. (Deleted by amendment.)".

Amend the bill as a whole by adding a new section designated sec. 12.5, following sec. 12, to read as follows:

"Sec. 12.5. NRS 338.139 is hereby amended to read as follows:

338.139 1. A ~~{public body}~~ *governing body* or its authorized representative may award a contract for a public work pursuant to NRS 338.1375 to 338.13895, inclusive, to a specialty contractor if:

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed; ~~{and}~~

(b) The public work to which the contract pertains is not part of a larger public work ~~{;}~~; *and*

(c) *All work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor is performed by a subcontractor that is licensed to perform such work.*

2. If ~~{a public body or its authorized representative}~~ *the State Public Works Board* awards a contract to a specialty contractor pursuant to NRS 338.1375 to 338.13895, inclusive, all work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who:

(a) Is licensed to perform such work; and

(b) At the time of the performance of the work, is not on disqualified status with the State Public Works Board pursuant to NRS 338.1376."

Amend sec. 15, page 18, lines 32 and 41, by deleting "~~[\$100,000]~~ \$250,000" and inserting "\$100,000".

Amend sec. 16, page 20, lines 27 and 36, by deleting "~~[\$100,000]~~ \$250,000" and inserting "\$100,000".

Amend the bill as a whole by deleting sections 17 through 19 and inserting:

"Secs. 17-19. (Deleted by amendment.)".

Amend sec. 20, page 23, line 45, by deleting: "*in addition to*" and inserting "*before*".

Amend sec. 21, page 24, line 5, by deleting "~~[\$100,000]~~ \$250,000." and inserting "\$100,000".

Amend the title of the bill to read as follows:

"AN ACT relating to public works; requiring only first tier subcontractors to be listed in the bid by the prime contractor in certain circumstances;

providing an exception to the competitive bidding process in certain circumstances; requiring an arbitration clause in certain public works contracts; revising the requirements for a request for preliminary proposals for the design and construction of certain public works; decreasing the required number of proposals required before awarding a contract to a design-build team; requiring certain proposals and related information to be made available to the public; and providing other matters properly relating thereto."

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 493.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 428.

Amend the bill as a whole by deleting sections 2 through 8 and renumbering sections 9 through 14 as sections 2 through 7.

Amend the bill as a whole by deleting sections 15 through 17.

Amend the title of the bill, first through third lines, by deleting: "providing that taxes on gross receipts from the rental of transient lodging do not apply to a motion picture company;"

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 6.

Bill read second time and ordered to third reading.

Assembly Bill No. 88.

Bill read second time and ordered to third reading.

Assembly Bill No. 205.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 28.

Bill read third time.

Remarks by Senator Hardy.

Roll call on Senate Bill No. 28:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 28 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 30.

Bill read third time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 553.

Amend section 1, page 2, line 2, by deleting "11," and inserting "5,".

Amend the bill as a whole by deleting sections 2 through 5 and renumbering sections 6 through 8 as sections 2 through 4.

Amend sec. 6, page 2, line 15, by deleting:

"Sec. 6. *"Trunk"* and inserting:

"Sec. 2. *As used in sections 2 to 5, inclusive, of this act, unless the context otherwise requires, "trunk"*.

Amend sec. 7, page 2, by deleting lines 21 through 27 and inserting: *"impose a surcharge on each access line or trunk line of each customer to the local exchange of any telephone company providing those lines in the city, for the enhancement of the telephone system for reporting an"*.

Amend sec. 7, page 2, line 40, after *"thereafter;"* by inserting *"and"*.

Amend sec. 7, page 3, by deleting lines 2 through 6 and inserting: *"company pursuant to paragraph (a)."*

Amend sec. 7, page 3, by deleting lines 8 through 11 and inserting: *"lines in a city that imposes a surcharge pursuant to this section shall collect the surcharge from its customers each month. The"*.

Amend sec. 7, page 3, line 12, by deleting *"or supplier"*.

Amend sec. 7, page 3, line 18, by deleting *"or suppliers"*.

Amend sec. 7, page 3, line 21, by deleting *"or supplier"*.

Amend sec. 7, page 3, lines 24 and 25, by deleting: *"company or a supplier."* and inserting *"company."*

Amend sec. 8, page 3, lines 27 and 30, by deleting "7" and inserting "3".

Amend sec. 8, page 4, line 2, by deleting "7" and inserting "3".

Amend the bill as a whole by deleting sections 9 and 10 and renumbering sections 11 and 12 as sections 5 and 6.

Amend sec. 11, page 5, line 33, by deleting *"or supplier"*.

Amend sec. 11, page 5, line 34, by deleting "7" and inserting "3".

Amend the title of the bill by deleting the second and third lines and inserting: *"imposition and collection of a surcharge on access lines and trunk lines of telephone companies for the enhancement of the telephone system for"*.

Amend the summary of the bill to read as follows:

"SUMMARY—Authorizes certain cities to impose surcharge on access lines and trunk lines of telephone companies for enhancement of telephone system for reporting emergencies. (BDR 21-740)".

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 37.

Bill read third time.

Roll call on Senate Bill No. 37:

YEAS—18.

NAYS—Care, Cegavske—2.

EXCUSED—Tiffany.

Senate Bill No. 37 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 47.

Bill read third time.

Roll call on Senate Bill No. 47:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 47 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 91.

Bill read third time.

Roll call on Senate Bill No. 91:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 91 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 110.

Bill read third time.

The following amendment was proposed by the Committee on
Government Affairs:

Amendment No. 554.

Amend section 1, page 3, by deleting lines 21 through 23 and inserting:

"(V) A statement indicating whether the".

Amend section 1, page 3, by deleting lines 33 through 37 and inserting:
"opportunity for a hearing, a permanent regulation."

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy, Carlton and Titus.

Conflict of interest declared by Senator Raggio.

Conflict of interest declared by Senator Mathews.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 123.

Bill read third time.

Remarks by Senators Titus, Hardy, Coffin, Beers, Townsend and Care.

Senator Townsend requested that the following remarks be entered in the Journal.

SENATOR TITUS:

I find there are some good things in this bill; some things I would like to support, but the reason I am going to vote "no" on the bill is that I represent the district in the State that has the most mobile home parks. I cannot vote in favor of something that automatically excludes people who live in mobile home parks from a benefit that they are now entitled to. I hope that this goes to the Assembly, and they work on those provisions. Then, if it comes back in an amended version, I would be pleased to support it at that time.

SENATOR HARDY:

Part of the thought process of the committee was that by reducing their eligibility for certain entitlements we were opening up others. It was the feeling that there would be additional opportunities for them to receive money from the welfare side.

SENATOR COFFIN:

I think mobile home owners should be treated like everyone else. The premise behind the plan was to help all people not just people in a particular kind of housing. All classes should be treated equally. Weatherization is important. Those of us who live in southern Nevada know we have a tremendous number of hot days. In the north and the east, the cold weather is a factor. This is a year-round need.

With power bills going up as fast as they are, nearly double what they were a few years ago, people in mobile homes deserve the same protection. I do not accept the argument as it was stated yesterday when this bill was on Second Reading. It was stated that because some of these mobile homes are old, the weatherization would not do them any good. Anything will do them some good. Doing nothing is guaranteed to do them no good and will make them fall farther and farther behind.

There was an assertion, yesterday, that a person in a mobile home may be moving up to a stick-built house. In the district I represent, most of the residences are the end residence for these people. That is where they go to finish their days.

I think there were good intentions to this bill to beef up the weatherization for stick-built homes, but the fee is being cut which means it probably will not serve any more people in those homes. No part of our population seems to be gaining, but one class is definitely losing. Mobile homes are everywhere. The cost is worth it for these people. They have been paying the tax for this, and they will still be paying the tax; yet, they will not receive any benefit as this bill stands now. I will vote "no" on the bill.

SENATOR BEERS:

There was pertinent testimony in the Finance subcommittee that under one-fifth of 1 percent of Nevadans receives a benefit from this tax. It was designed to be selective.

SENATOR TOWNSEND:

Four years ago, A.B. 661 of the Seventy-first Legislative Session was processed by Commerce and Labor as was this bill. That was a hard-fought debate. Four years ago, this program did not exist. People received assistance from other components in state government including the Low Income Home Energy Assistance Program. There were those of us who were so distressed by what we saw when the Welfare Division brought this bill forward that there was discussion to eliminate this program.

The facts are that, begrudgingly, this body passed the Universal Energy Charge Bill. Now, we find that the administration was unable to implement the welfare component. As a result, a huge amount of funding, reaching \$15 million, was not getting to the people intended to receive it. The money sat in a state trust account. In all fairness to my colleagues, who I respect on my committee, not one of us was aware that for two years there was not a dime going to anyone. We should have been told, and we were owed an explanation. Someone, at sometime, should have given us that information. Whether the administrative staff or our staff should have informed us, I do not know. We kept charging consumers a mill tax over and over again, month after month. I remember receiving calls from some of you that this was the worst thing we ever did. You took "the heat" in southern Nevada for adding it to their power bill. Even though that subsided, the people in need still did not get the money.

Senate Bill No. 123 wanted more administrative revenue, some of which was shifted from the Public Service Commission (PUC) which the PUC was willing to give up, but then, the Welfare Division not the Weatherization Division wanted to tap into the corpus for additional administrative expense. I was offended. If we are going to help these people, we are not going to spend more on administrative expense. Welfare did not give the money to the people in need, and yet, they wanted more money to do it with. That is something this body should say "no" to.

They should either administer this program or not. If we cannot, then we need to go to Plan B. This amendment is Plan B. I will discuss the components in this bill. I respect the remarks of the previous speakers. They are all on point. There are some nice mobile homes in this State, but the fact is weatherizing a mobile home is like painting a 40-year-old car. It might look good, but it is not very effective. We are not abandoning those people because there is more money now available on the welfare side.

The other side is that many people who live in "stick-built" homes who are going to be challenged by the cost of energy will have an opportunity to have weatherization placed where they do not have to come back to the welfare side. It is a long-term investment. We think it is a value to those individuals because it is a more effective use of the dollars. For example, we are not buying toasters anymore. This bill is about accountability. It allows solar water heaters to be purchased, but we are not replacing things that do not return a positive dollar-for-dollar offset.

SENATOR HARDY:

I do not want to leave the body with the impression that it was the full committee's contention that weatherization does not help mobile homes. That is not logical. Weatherization does help. Our feeling was that it was not the most efficient, cost-effective way to get help to those who need it. It was not the position of the full committee that it does nothing to help; it was just the question of efficiency and how we can get the most out of the dollars being spent. That was the basis of our recommendation.

SENATOR COFFIN:

Thank you for that clarification. An assertion was made by a different member of the committee that implied that there was no use in it. What we have from the Chair of the Committee on Commerce and Labor is a good explanation of why they processed a bill which, though envisioned as one to straighten out the governmental administration of the program, actually throws out the people who were to be benefiting from that program. The way to send the message to government is to send a resolution to a governor and the division that is not functioning properly saying, "We abhor the way this is working. It is not working according to statute; therefore, please do better." I do not see that here. Instead, we are going to cut services. We do not know if it will work. It takes a few years for a new program to get started. I do not know why they built up such a reserve as was mentioned. That begs the question as to why did the committee not spank the government on this one. That is a rhetorical question. The cure seems to be killing the patient. All people will pay this tax including those in the mobile homes, but they cannot receive any benefit unless they become part of the welfare program. I do not think that is a dignified way to tell people we would like to help you with your power bill. It tells them they must become a welfare client. This does not seem fair.

SENATOR TOWNSEND:

To use the previous speaker's term, they were spanked. We are not giving them additional administrative expense. We are curtailing it. We are applying that to the people who need it. I do not think there is a differentiation between people who live in stick-built homes and those who need help in mobile homes. They live with different components. As a result, the vice chair was accurate. The most effective use of the dollars is to do it in a manner that this proposes. This is not to hurt the people as was previously expected. This bill is to make a program that had a tough time getting through this body, more effective.

This bill arrived in Commerce and Labor, and we took on the issue. We were less than thrilled. We berated, cajoled and yelled at the administration. We said, "You are ineffective in providing this. You have not done anything." Those of us who come from the private sector do not let things get in the way of accomplishing something that is a policy set by those above you. You just get it done. They waited. Then they came in with a bill that I thought was absurd. We did the best we could. If it is not liked, that is what goes on on the floor of the Senate. It was a good faith effort.

SENATOR CARE:

I do not have the benefit of the committee testimony, and the last thing I want to do is to vote against legislation that ultimately may give us some good. I share the same concerns as Senator Titus. We have in excess of 40 mobile home parks in our district. Everything I have heard this morning is intelligent and persuasive, and I will vote for the bill. If I think it necessary, I will work with the Assembly when they receive this bill.

Roll call on Senate Bill No. 123:

YEAS—7.

NAYS—Beers, Carlton, Cegavske, Coffin, Horsford, Mathews, McGinness, Nolan, Raggio, Rhoads, Titus, Townsend, Washington—13.

EXCUSED—Tiffany.

Senate Bill No. 123 having failed to receive a constitutional majority, Mr. President pro Tempore declared it lost.

Senate Bill No. 126.

Bill read third time.

The following amendment was proposed by Senator Schneider:

Amendment No. 572.

Amend the bill as a whole by deleting sections 1 through 20 and adding new sections designated sections 1 and 2, following the enacting clause, to read as follows:

"Section 1. NRS 223.570 is hereby amended to read as follows:

223.570 1. The Director ~~may~~

~~(a) Within~~, within the limits of available money ~~[]~~ :

(a) *Shall, to carry out the provisions of this section and NRS 223.560 and 223.580, employ at least two persons who have experience in the field of workers' compensation, including, without limitation, persons who have experience in administering claims or programs related to policies of industrial insurance, representing employees in contested claims relating to policies of industrial insurance or advocating for the rights of injured employees; and*

(b) May, in addition to the persons required to be employed pursuant to paragraph (a), employ:

(1) Such persons in the unclassified service of the State as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580, including, without limitation, a provider of health care, as that term is defined in NRS 449.581.

(2) Such additional personnel as may be required to carry out the provisions of this section and NRS 223.560 and 223.580, who must be in the classified service of the State.

↪ A person employed pursuant to the authority set forth in this subsection must be qualified by training and experience to perform the duties for which the Director employs him.

~~{(b)}~~ 2. *The Director may:*

(a) To the extent not otherwise prohibited by law, obtain such information from consumers, injured employees, health care plans, prescription drug programs and policies of industrial insurance as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580.

~~{(e)}~~ (b) Adopt such regulations as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580.

~~{(d)}~~ (c) Apply for any available grants, accept any gifts, grants or donations and use any such gifts, grants or donations to aid the Office in carrying out its duties pursuant to subsection 8 of NRS 223.560.

~~{2}~~ 3. The Director and his employees shall not have any conflict of interest relating to the performance of their duties pursuant to this section and NRS 223.560 and 223.580. For the purposes of this subsection, a conflict of interest shall be deemed to exist if the Director or employee, or any person affiliated with the Director or employee:

(a) Has direct involvement in the licensing, certification or accreditation of a health care facility, insurer or provider of health care;

(b) Has a direct ownership interest or investment interest in a health care facility, insurer or provider of health care;

(c) Is employed by, or participating in, the management of a health care facility, insurer or provider of health care; or

(d) Receives or has the right to receive, directly or indirectly, remuneration pursuant to any arrangement for compensation with a health care facility, insurer or provider of health care.

Sec. 2. This act becomes effective on July 1, 2005."

Amend the title of the bill to read as follows:

"AN ACT relating to the Office of the Governor; requiring the Director of the Office for Consumer Health Assistance in the Office of the Governor to employ persons who have experience in the field of industrial insurance; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Requires Director of Office for Consumer Health Assistance in Office of Governor to employ persons with experience in field of industrial insurance. (BDR 18-246)".

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and Townsend.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 135.

Bill read third time.

Remarks by Senators Care and Carlton.

Roll call on Senate Bill No. 135:

YEAS—17.

NAYS—Mathews, Washington—2.

NOT VOTING—Raggio.

EXCUSED—Tiffany.

Senate Bill No. 135 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 163.

Bill read third time.

Roll call on Senate Bill No. 163:

YEAS—19.

NAYS—None.

NOT VOTING—Raggio.

EXCUSED—Tiffany.

Senate Bill No. 163 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 173.

Bill read third time.

Remarks by Senators Cegavske, Care Washington and Carlton.

Senator Amodei requested that the following memo be included in the
Journal.

DATE: April 21, 2005
TO: SENATOR MARK E. AMODEI
FROM: NICOLAS C. ANTHONY, *Principal Research Analyst*
Research Division

SUBJECT: Federal Homestead Legislation and Senate Bill No. 173

This memorandum responds to your request for information on the recently enacted federal bankruptcy bill. Specifically, you inquired whether the federal legislation preempts Nevada state law in relation to the processing of Senate Bill No. 173.

Generally, in the area of bankruptcy, federal law governs; however, where the federal law is silent or specifically authorizes state law, such as in the area of homestead amounts, the federal law may look to the state statutory provisions wherein the case is filed.

S. 256

As you may be aware, President Bush signed S. 256 (Bankruptcy Abuse Prevention and Consumer Protection Act of 2005) into law yesterday, April 20, 2005. The measure is being touted as the first major bankruptcy reform bill in 25 years, and contains various provisions aimed at making it harder for individuals to file bankruptcy. The bill is over 500 pages in length

and makes changes including: qualifying test for Chapter 7 bankruptcy, determining what the debtor can afford to pay under Chapter 13, lawyer liability, credit counseling, and tougher homestead exemptions. Enclosed are two summaries of the measure, with pertinent sections highlighted for your reference.

S. 256 and Homesteads

Specifically, in regards to homesteads, the new law places more stringent restrictions on the homestead exemption and attempts to close the "mansion loophole." For instance, the bill clarifies that if bankruptcy filers have not lived in a state for at least two years, they may only take the state exemption of the state where they lived for the majority of the time for the 180 days before the two-year period.

Additionally, filers may only exempt up to \$125,000, regardless of a state's exemption allowance, if their home was acquired less than 40 months before filing, or if the filer has violated securities laws or been found guilty of certain criminal acts, intentional torts, or engaged in reckless misconduct that caused serious physical injury or death. It appears the \$125,000 limit would only override state law in the specified instances.

Unlike most of the other provisions, the new homestead exemption rules go into effect immediately.

Senator Care moved that Senate Bill No. 173 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Care.

Motion carried.

Senate Bill No. 191.

Bill read third time.

Roll call on Senate Bill No. 191:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 191 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 208.

Bill read third time.

Roll call on Senate Bill No. 208:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 208 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 225.

Bill read third time.

Roll call on Senate Bill No. 225:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 225 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 240.

Bill read third time.

Senator Coffin disclosed that he is an insurance broker.

Roll call on Senate Bill No. 240:

YEAS—17.

NAYS—Care, Carlton—2.

NOT VOTING—Raggio.

EXCUSED—Tiffany.

Senate Bill No. 240 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 295.

Bill read third time.

Roll call on Senate Bill No. 295:

YEAS—19.

NAYS—None.

NOT VOTING—Raggio.

EXCUSED—Tiffany.

Senate Bill No. 295 having received a two-thirds majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 300.

Bill read third time.

Senator Lee disclosed that he is a licensed contractor.

Roll call on Senate Bill No. 300:

YEAS—19.

NAYS—None.

NOT VOTING—Raggio.

EXCUSED—Tiffany.

Senate Bill No. 300 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 306.

Bill read third time.

The following amendment was proposed by the Committee on
Government Affairs:

Amendment No. 552.

Amend sec. 9, page 3, by deleting line 38 and inserting: "*reports from independent consultants which were addressed to both*".

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 332.

Bill read third time.

Remarks by Senators Lee and Townsend.

Senator Lee disclosed that that his wife is a real estate broker.

Senator Townsend disclosed that his wife is a real estate broker.

Senator Nolan disclosed that he is a real estate broker.

Roll call on Senate Bill No. 332:

YEAS—19.

NAYS—None.

NOT VOTING—Raggio.

EXCUSED—Tiffany.

Senate Bill No. 332 having received a two-thirds majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 333.

Bill read third time.

Senator Hardy disclosed that his wife is a cosmetologist and a salon owner.

Roll call on Senate Bill No. 333:

YEAS—17.

NAYS—Care, Horsford, Mathews—3.

EXCUSED—Tiffany.

Senate Bill No. 333 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 335.

Bill read third time.

Senator Hardy disclosed that his wife is a cosmetologist and a salon owner.

Roll call on Senate Bill No. 335:

YEAS—16.

NAYS—Care, Coffin, Horsford, Mathews—4.

EXCUSED—Tiffany.

Senate Bill No. 335 having received a two-thirds majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 368.

Bill read third time.

Roll call on Senate Bill No. 368:

YEAS—19.

NAYS—Horsford.

EXCUSED—Tiffany.

Senate Bill No. 368 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 396.

Bill read third time.

Roll call on Senate Bill No. 396:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 396 having received a two-thirds majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 403.

Bill read third time.

Remarks by Senators Titus, Care and Washington.

Senator Titus requested that her remarks be entered in the Journal.

I am going to vote for this bill because I am concerned about recent events in southern Nevada where teachers with previous sex-related offenses have ended up in Pahrump because we could not track their record before they got there. We must protect our children. Nonetheless, there are several provisions that seem to deny due process to a teacher who has been charged with an offense, for example, having the offense reported prior to a determination being made. Once a determination has been made, it should be reported, but sometimes accusations are not born out, and then, a person's career is ruined if they are publicly reported.

I will vote for this, and I will work with those down the hall to ensure teachers have those protections.

Senator Washington moved that Senate Bill No. 403 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senate Bill No. 434.

Bill read third time.

Senator Lee disclosed that he is a licensed contractor.

Roll call on Senate Bill No. 434:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 434 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 444.

Bill read third time.

Remarks by Senators Cegavske, Care, Coffin and Raggio.

Senator Coffin disclosed that he has a client who is involved in gaming.

Roll call on Senate Bill No. 444:

YEAS—19.

NAYS—Carlton.

EXCUSED—Tiffany.

Senate Bill No. 444 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 1:13 p.m.

SENATE IN SESSION

At 1:21 p.m.

President pro Tempore Amodei presiding.

Quorum present.

Senate Bill No. 450.

Bill read third time.

Roll call on Senate Bill No. 450:

YEAS—20.

NAYS—None.

EXCUSED—Tiffany.

Senate Bill No. 450 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 458.

Bill read third time.

Roll call on Senate Bill No. 458:

YEAS—19.

NAYS—None.

NOT VOTING—Raggio.

EXCUSED—Tiffany.

Senate Bill No. 458 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 460; Assembly Bills Nos. 79, 178, 227, 243 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 238, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Bills Nos. 73, 132; Senate Concurrent Resolution No. 18; Assembly Concurrent Resolution No. 21.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperones and teacher from the Seeliger Elementary School: Emily Anzalone, Sierra Blair, Adam Peterson, Patrick Daivson, Jessica Dodge, Danielle Good, Juan Jimenez-Soto, Stephanie Medina, Max Mueller, Hugo Ramirez, Carly Redmond, Hasum Rivera, Jaconn Rodriguez, Sierra Sheppard, Meghan Sparks, Todd Thomsen, Kandis Tuttle; chaperones: Tami Redmond, Susan Good, Lisa Peterson and teacher: Geri Moore.

On request of Senator McGinness, the privilege of the floor of the Senate Chamber for this day was extended to Larry "Mac" McClelland and Dan Nevin.

On request of Senator Washington, the privilege of the floor of the Senate Chamber for this day was extended to John Fenner, Celia Culver and the following students and chaperones from the Whitehead Elementary School: Brittany Branson, Katie Cantrell, Autumn Franck, Sarah Higgins, Jesse Howell, Dalton Johnson, Andrea Lopez, Gabe Mohomet, Amber Mendoza, Denise Montes, Mill Powar, Billy Robles, Sergio Rodriguez, Alex Rodriguiz, Tyler Roth, Ashley Ruff, Riley Ruppert, Angela Schwitters, Jon Simpson, Nicole Taylor, Jaidyn Umphrey, Ashley Woodard, Sadie Young, Rachelle Sonnier, Brandon Boykin, Grant Colby, Cindy Bowers, Stuart Cates, Haley Gibbs, Daniel Griffin, Danny Jarrett, Edward Kindrick, Taylor Leach, Hans Lund, J.J. Mariano, Levi McDonald, Kelsey Miller, Scott Muenzenmay, Birianne Nelson, Crystal Priddy, Thomas Rauch, Zulemia Roman, Ashley Rutherford, Angie Simons, Jason Sterett, Lacey Stultz, Hannah Thomas, Caitlyn Triplett, Sean Troup, Brandon Warner, Sierra Warzer, Adrian Wyatt, Allyson Alexander, Marlene Bernal, Hunter Croneis Moreno, Claudia Garcia, T.J. Guitierrez, Austin Hensen, Troy Hiatt, Lea Hutchinson, Aksel Jimenez, Addiesha Knoblock, Chinette Lee, Samantha McPartland, Erica Medina, Kimberly Mejicanos, Jesus Montes, Jake Myers, Jose Navarro, Chance Nevarez, Sam Nichols, Sean O'Brien, Carlee Payne, Jacie Shipp, Sierra Sobio, Bryce Yearman, Casey Reno, C.J. Ellingwood; chaperones: Nichole Coombe, Dave Howell, Denise Colby, Tony Mahomet, Carrie

Hunter, Stephanie Crawford, Susan Sterett, Teresa Stultz, Vicki Fisher, Tammi Nelson, Jose Roman, Nea McGee, Vicki Peterson, Douglas Hensen, Christine Thomas, Jack McPartland, Gary Hutchinson and Danielle Shipp.

Senator Raggio moved that the Senate adjourn until Friday, April 22, 2005, at 10 a.m.

Motion carried.

Senate adjourned at 1:29 p.m.

Approved:

MARK E. AMODEI
President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate