THE ONE HUNDRED AND TWENTIETH DAY

CARSON CITY (Monday), June 4, 2007

Assembly called to order at 11:37 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Minister Bruce Henderson.

From Proverbs 30, in the contemporary English version: "I am completely worn out. How can I last?" Father, they tell me that it's anyone's guess as to when we'll be through here. But, Lord, You know. Please give us peace, unity, resolve, and diligence until that time comes. And, after we leave this place, I pray for the health, safety, peace, faith, and love of each member until next we meet. I pray in the Name of the One who promises an eternal revival, homecoming, and reunion.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Oceguera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 628 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 628.

Bill read third time.

Remarks by Assemblyman Arberry.

Assemblyman Arberry requested that his remarks be entered in the Journal.

The General Appropriations Act, the General Authorizations Act, the salary bill, the school funding bill, and the capital improvement bill are the final result of long deliberations by the Assembly Committee on Ways and Means and the Senate Committee on Finance. The General Appropriations Act and other appropriations bills considered throughout the session delineate the amount of the General Fund support approved by the money committees for the operation of Nevada State Government for the 2007-09 biennium. The General Fund appropriations included in the General Appropriations Act total $2,080,276,347 in Fiscal Year (FY) 2008 and $2,227,349,682 in FY 2009, and the Highway Fund appropriations total $118,232,260 in FY 2008 and $127,054,843 in FY 2009.

The money committees approved $36.1 million in General Fund support for the Office of the Attorney General for the 2007-09 biennium. This includes $24.1 million to support the Attorney General Administrative account and the addition of 11 new positions. Nearly $4 million was appropriated to restore the reserve balance in the Attorney General Tort Claim Fund.

Additionally, $2.25 million was approved for the Special Fund account to continue legal activities in opposing the location of a federal nuclear waste repository at Yucca Mountain.

In closing the Judicial Branch budgets, the money committees approved General Fund support totaling $46.5 million for the 2007-09 biennium. The funding provides for additional staff attorneys and paralegals to assist in addressing caseload issues. Funding of $1.6 million was approved for information technology enhancements for the Supreme Court, including enhancements for the E-Filing program and a new web-based case management system. The money committees approved a significant expansion in the availability of specialty courts, to be funded with $11.5 million in administrative assessment revenue rather than state General Fund, as requested by the Judicial Branch.

The money committees approved $60.8 million in General Fund support for the Department of Taxation over the 2007-09 biennium. The funding includes $6.9 million for the long-term production support of the Unified Tax System that is anticipated to be completed by the end of FY 2007; six new positions for the expansion of the department's information technology division; and four new positions for the Division of Assessment Standards.

Funding for public schools was considered separately in Assembly Bill 627, the school funding bill, which contains funding for basic support, class-size reduction, teacher training and incentives, early childhood education, educational technology, career and technical education, and other programs.

In closing the Department of Education budgets, the money committees approved General Fund support in the amount of $22.6 million for the 2007-09 biennium. Of this amount, $10.3 million is for the continuation of the statewide testing program. Funding for the Grants Writer position, which had been scheduled to sunset at the end of the current year, was continued, and a new state-funded Gifted and Talented Coordinator was approved.

In closing the budgets of the Nevada System of Higher Education, the money committees approved General Fund support, excluding funding for cost-of-living increases, totaling $1.28 billion for the 2007-09 biennium.

Enrollment growth has slowed significantly at the Nevada System of Higher Education. System-wide, actual FTE enrollments grew by 2.0 percent in FY 2006 and by less than 1.0 percent in FY 2007. The actual enrollments were substantially lower than the budgeted enrollment growth of 5.5 and 5.6 percent, respectively. The Governor's budget anticipated that student enrollments system-wide would reach 67,559 by the end of FY 2009. Based on updated enrollment data, the money committees revised projected enrollments downward to 63,738 in FY 2009.

The slowdown in enrollment growth placed a number of campuses into hold harmless positions where maintenance calculations yield lower funding than current service levels. Based on the revised enrollment levels, and using the 85.5 percent formula funding level recommended by the Governor, the money committees made adjustments that decreased formula funding and then proportionally redistributed $5.3 million in annual General Fund savings to the hold harmless campuses. Because of the severity of the slowdown in enrollment growth, a number of campuses remained in hold harmless positions after the committee's actions.

The money committees approved several enhancements to the Nevada System of Higher Education budgets, including $1.0 million for the biennium to study, research and understand Chronic Fatigue Syndrome; $300,000 per year to provide partial funding in support of administrative positions at the Desert Research Institute; and $599,346 for the biennium to recognize the increased costs associated with the transfer of the Nye County service area from CCSN to Great Basin College.

To address budget reduction targets, the money committees did not approve a number of the Governor's recommended budget enhancements including workforce development grants, a groundwater study, P-21 Council staff, undergraduate exchange funding, and support for the Nevada Scholars scholarship and mentoring program.

The money committees approved a total of $29.7 million in General Funds over the 2007-09 biennium to support the department's library and museum operations statewide. The funding approved includes $9.14 million for the Nevada State Library, which provides for increased funding for rural county bookmobiles and $1.2 million to be distributed to libraries throughout the state to enhance collections and development. General Funds totaling $2.72 million over the

2007-09 biennium were approved for the new museum at the Las Vegas Springs Preserve site, which includes $556,397 for 12.51 new positions and associated operating costs.

In closing the budgets for the Division of Insurance, the money committees approved General Funds totaling approximately $459,000 over the biennium for the continuation of two positions added during FY 2006 and the addition of two more positions in FY 2008 for the division's corporate and financial section. The committees approved the positions in an effort to maintain the division's accreditation with the National Association of Insurance Commissioners.

The money committees approved $2.5 million in General Funds for each fiscal year of the 2007-09 biennium for grants to the urban regional development authorities, and $995,000 per year for grants to rural regional development authorities.

In closing the budgets administered by the Health and Human Services Director's Office, the money committees approved General Funds totaling $200,000 each fiscal year to allow the Nevada 211 System to maintain its current hours of operation.

The money committees approved approximately $3.7 million over the 2007-09 biennium for caseload and inflationary increases for the Personal Assistance Services, Traumatic Brain Injury and Independent Living programs. The money committees also approved $100,000 in each fiscal year to allow the Positive Behavioral Support-Nevada program to expand its operations in southern Nevada.

The money committees approved General Funds totaling $1.2 million over the 2007-09 biennium to allow the state's Family Resource Centers to assist with child welfare cases that do not warrant investigative actions by child protective agencies so that those agencies are better able to respond to more severe cases. The department has termed this effort "Differential Response."

The money committees approved a total of $941.5 million in General Fund support and $2.1 billion in authorized revenue for the division over the 2007-09 biennium. The funding approved provides for caseload growth in the Medicaid program projected at approximately 164,000 average monthly recipients for FY 2008 and 167,000 average monthly recipients for FY 2009.

The funding approved provides for a fee-for-service rate increase for physician and other medical professionals effective August 2008, and mandatory inflation and rate increases for pharmacy, managed care and transportation services. The rate increase for physicians and other medical professionals is based on the most recent Medicare fee schedule and will go a long ways to improve patient access and to compensate general medical practitioners adequately.

The money committees approved six new initiatives designed to promote General Fund savings of approximately $3.82 million over the 2007-09 biennium. The initiatives include staffing enhancements for the Medicaid Estate Recovery and Surveillance and Utilization review units; adding a clinical claims editor software package to the MMIS system; initiating a voluntary managed care program for the aged, blind and disabled population; care management and regional care coordination for specialized high-risk and high-cost populations; and extending non-emergency dental benefits to pregnant women age 21 and older. The money committees also approved two new initiatives that expand Medicaid coverage and services. The first initiative provides long-term community-based residential habilitation and behavioral adult daycare services for Medicaid recipients over age 22 with a diagnosis of traumatic brain injury. The second initiative eliminates the unearned income limit for the Health Insurance for Work Advancement (HIWA) program. The unearned income limit is considered a barrier and is the primary reason enrollment in the HIWA program has never met expectations.

The money committees approved funding to allow enrollment in the Check-Up program to increase to approximately 30,300 children per month for FY 2008 and approximately 31,900 children per month for FY 2009. Additionally, although enrollment in the HIFA Medical program has started slower than hoped for, as the public's awareness grows, enrollment is anticipated to grow as well. In light of this, the money committees approved funding to provide medical coverage for approximately 2,400 pregnant women per month and coverage for Employees Subsidies Insurance for over 4,000 participants per month by the end of FY 2009. Finally, funding was approved for staffing and resources to strengthen the division's fiscal management and information technology infrastructure and to meet the more onerous quality-assurance requirements for Medicaid waivers imposed on states by the Centers for Medicare and Medicaid.

A total of $498 million in General Fund support was approved for the Division of Mental Health and Developmental Services over the 2007-09 biennium. The General Fund support, combined with other revenue sources, will fund existing and projected caseloads for the mentally ill and mentally retarded. The money committees approved appropriations totaling $18 million to continue expanded mental health court statewide, community triage centers in northern and southern Nevada, and residential placements and acute psychiatric inpatient beds in southern Nevada that were approved in Assembly Bill 175 by the 2005 Legislature.

At Southern Nevada Adult Mental Health Services, the money committees did not concur with the Governor's recommendation to reduce medication costs and restored appropriations of $4.9 million over the biennium for these services. The money committees also restored five positions that were recommended for elimination by the Governor in support of outpatient counseling and psychiatric ambulatory services.

At Northern Nevada Adult Mental Health Services, funding was approved to serve an additional 170 clients in medication clinics and 30 individuals in residential supports. In addition, appropriations totaling $382,445 were approved to establish a new Mobile Outreach program, similar to the Mobile Crisis program in southern Nevada, which will assist local law enforcement in service calls, suicidal persons and citizen welfare checks.

The money committees approved General Fund support of $8.7 million in the 2007-09 biennium to provide an array of services, including community placements and jobs and day training, to 518 additional clients at the Desert, Sierra and Rural Regional Centers. Funding was also approved to eliminate the remaining 20 beds at Sierra Regional Center and 6 beds at Desert Regional Center with the clients transitioning to community placements. The money committees also approved the establishment of crisis prevention intervention teams who will assist agency staff in preventing and responding to crisis episodes with both clients and service providers. The money committees also approved expansion of a pilot program initiated by the division during the current biennium that provides cash assistance for self-directed services to 52 families with children diagnosed with both mental retardation and autism spectrum disorders. Additional funding of $1.7 million in the 2007-09 biennium will provide monthly cash assistance to 54 more families for self-directed services, and increases the average monthly assistance to all families from $1,100 per month to $1,320 per month.

Lastly, the money committees approved the Governor's recommendation to appropriate a total of $14.1 million in the 2007-09 biennium to the Substance Abuse Prevention and Treatment Agency (formerly known as the Bureau of Alcohol and Drug Abuse) to support methamphetamine education programs, community substance abuse prevention and treatment program, and to establish a pilot program to serve 90 individuals with co-occurring substance abuse and mental illness disorders.

The money committees approved $49.3 million in General Fund support for the Health Division over the 2007-09 biennium. The funding includes $29.9 million for Early Intervention Services, which includes $1.4 million in new funding to address caseload issues. The money committees also approved General Fund of $766,039 for ongoing poison control call center services support, as well as $250,972 for ongoing funding for the Office of Minority Health. The AIDS Drug Assistance Program (ADAP) was approved for approximately $3.6 million over the biennium to fund HIV/AIDS medications. Childhood immunizations were approved for $1.8 million in General Fund support. The state support, combined with federal Title XXI funds, will meet the projected immunization needs for children for the upcoming biennium.

The money committees approved General Fund support in the amount of $145.2 million over the 2007-09 biennium for the Division of Welfare and Supportive Services.

General Funds totaling $49.2 million over the 2007-09 biennium were approved for the TANF budget, primarily to support projected caseloads. The money committees approved an increase in the cash assistance payment by 10 percent over the current level. The increase in the cash assistance payment is approximately $35 per month and increases the monthly payment for a family of three to $383. General Funds totaling $18.1 million over the 2005-07 biennium, combined with federal funds of $83.4 million, were approved to support childcare-related expenses for eligible clients.

In closing the budgets for the Division for Aging Services, the money committees approved approximately $83.9 million in total funding for the 2007-09 biennium, including $21.7 million

in General Fund support. The funding approved will support increased caseloads for the Community Home-Based Initiatives waiver, the waiver for Elderly in Adult Residential Care, and the new Assisted Living waiver. General Fund support totaling approximately $180,000 was approved to provide services to individuals who require assistance with bathing, toileting and feeding as part of the state-funded program to allow people to remain in their homes instead of being placed in a long-term care facility.

In addition, the money committees approved two new positions for infrastructure support and two new Social Work Supervisor positions to supervise Elder Rights Advocate positions that investigate complaints of abuse or neglect in long-term care facilities. The funding approved will also support the projected growth in the Senior Citizens' Property Tax Assistance program.

The money committees approved a total of $112.5 million in General Fund support over the 2007-09 biennium for child welfare services. A total of 56 new positions, 50 for Clark County and 6 for Washoe County, were approved to maintain the staff-to-client ratio for child welfare caseworkers, funded by both authorized revenues and General Fund. An additional 37 new positions were also approved to assist with foster care recruitment, retention and licensing, as well as to support other child welfare services. Funding was approved to support increased caseload projections for foster care, higher levels of care, emergency shelter, and adoption subsidies. Approximately $7.3 million in General Fund support was approved to increase the daily foster care rate paid by the state from $21.00 per day currently to $24.00 per day in FY 2008 and $28.00 per day in FY 2009, and to increase adoption subsidy payments.

General Funds and federal funds were approved for nine new positions to aid the division in implementing requirements of its federal Program Improvement Plan and Child Abuse Prevention and Treatment Act (CAPTA) corrective action plan. The money committees approved General Fund support of $50.9 million over the biennium to continue funding for the three juvenile detention facilities operated by the division in Elko, Caliente, and Las Vegas. General Funds for one new position to support the Interstate Compact on Juveniles and funding to support increased placement and treatment services for paroled youth in the amount of $1.2 million for the 2007-09 biennium were approved, but were recommended to be appropriated to the Interim Finance Committee for distribution if necessary during the biennium.

The committees approved General Fund support of $28.3 million over the 2007-09 biennium to continue to provide mental health services for Northern and Southern Nevada Child and Adolescent Services. Approximately $1.5 million was approved to implement a mobile crisis team for children's mental health, consisting of contract mental health professionals who would be available seven days per week to respond to mental health crises. Funding for five new positions was also approved to convert one unit of the Desert Willow Treatment Center into a unit specializing in the treatment of co-occurring diagnoses (severe emotional disturbances and substance abuse) to address an unmet need for these services in the state.

In closing the Department of Corrections' budgets, the money committees approved General Fund support totaling $538.8 million for the 2007-09 biennium. The funding approved will provide for housing an average of 12,753 inmates in FY 2007-08 and 13,383 inmates in FY 2008-09. In response to legislation addressing good time and program credits eligible to be earned by offenders, the money committees approved deleting funding of $6.3 million from the department's budget and appropriating those funds to the Interim Finance Committee. This appropriation would be available for allocation to the department for inmate-driven costs, for the Division of Parole and Probation for additional staffing to supervise probationers and parolees, for the Board of Parole Commissioners for conducting inmate hearings, and for treatment programs for offenders.

The money committees approved 314 new positions for staffing expanded facilities within the department. The expanded facilities include the addition of 2,572 new beds, which will allow for a reduction of 645 beds operated above emergency capacity and the conversion of 840 medium-custody beds to close custody. General Funds of $1.6 million were approved to continue re-entry services to inmates and to continue a 172-bed substance abuse treatment program for inmates, both previously supported with federal funds that have been significantly reduced. Approved funding will also provide for the addition of six positions to support the department's new information technology system and three positions to implement the provisions of the federal Prison Rape Elimination Act.

In closing the budgets of the Department of Public Safety, the money committees approved approximately $118.8 million in General Funds and $137.0 million in Highway Funds over the 2007-09 biennium. Of the total appropriation from the Highway Fund, the money committees approved $133 million for the operations of the Highway Patrol, which includes approximately $11.0 million over the 2007-09 biennium to fund 76 new positions, including 67 sworn positions to increase highway enforcement throughout the state. The money committees also approved additional General Funds of approximately $1.0 million over the biennium, with offsetting decreases in Highway Funds to reflect the efforts of the Training Division in providing basic academy training to parole and probation versus Highway Patrol cadets.

The money committees approved approximately $98.6 million in total funding for the 2007-09 biennium, including $88.9 million in General Fund support for the Division of Parole and Probation. This funding will support 55 new positions for projected growth in caseloads over the 2007-09 biennium, including 15 positions for the southern command that were not originally recommended by the Governor.

The money committees approved a total of $3.1 million in General Funds over the 2007-09 biennium for Narcotics Control to add 10 new sworn officers to augment existing narcotics task forces in Ely, Elko, Fallon, Winnemucca, Mesquite, Douglas County, and Lyon County. Four of the sworn officers will provide narcotics investigative support to other counties in Nevada that are not currently supported by a task force, including Esmeralda, Lincoln, Mineral, Nye and Storey Counties.

The money committees approved the transfer of the Office of Homeland Security from the Department of Public Safety to the Governor's Office. In addition, the money committees approved funding the Office of Homeland Security with General Funds of approximately $425,000 in FY 2008 and $440,000 in FY 2009, as federal funding is no longer available. General Funds to support a state fusion center are included as an appropriation to the Interim Finance Committee and can be accessed upon the presentation and the approval of an agreed-to plan by the state and local law enforcement agencies.

The money committees approved Highway Fund appropriations in the amount of approximately $51.3 million in FY 2008 and $52.3 million in FY 2009 to support the operations of the department. The funding levels approved are under the 22 percent cap required by statute.

Approximately $5.2 million was approved over the 2007-09 biennium to continue the use of kiosks in DMV field offices. The money committees also approved funding of approximately $264,000 in FY 2009 for six additional positions for the Sahara office in Las Vegas and placed the funding in reserve, with direction that the agency approach IFC to add those positions at such time as wait times exceed 60 minutes. Furthermore, the money committees approved $536,117 over the 2007-09 biennium for a new express field office in North Las Vegas.

For the Department of Conservation and Natural Resources, including the Tahoe Regional Planning Agency, the money committees approved General Fund appropriations totaling $66.6 million over the 2007-09 biennium. A total of $2.4 million in General Fund support was approved to support various deferred maintenance projects throughout the state, including $2.0 million at State Parks. The money committees also approved increasing General Fund appropriations from $1.0 million annually to $2.5 million annually in response to the increasing costs of fire suppression efforts statewide.

The money committees approved General Fund appropriations totaling $2.7 million over the 2007-09 biennium. The General Fund support approved will reimburse the department for the difference between full-value and reduced-value licenses sold to youth, seniors, disabled citizens and Native Americans and provide for two Biologist positions for the wildlife diversity program.

The money committees approved $6.2 million in General Fund support over the 2007-09 biennium for the Commissioner for Veterans' Affairs and the southern Nevada Veterans' Home budget accounts. A new three-position Trinity Team was approved, which will be located in Elko and will provide assistance to the Veterans' population in rural Nevada in applying for federal Veterans' pensions and benefits. Additionally, five new positions were approved for the Veterans' Home, which is projected to be near its 180-bed capacity in the next biennium. The approved funding also provides for the continued operation of the Veterans' cemeteries located in Boulder City and Fernley and for a two-grade salary increase for all nursing positions at the Veterans' Home.

The money committees approved funding of $500,000 in FY 2007-08 and $1.2 million in FY 2008-09 for implementation of a new Project ChalleNGe program. Project ChalleNGe is a National Guard program that includes three components: education, a five-month residential phase, and a one-year post-residential phase. One of the goals of the program is for students to obtain a General Education Diploma (GED). It is anticipated that the location of the program will be at Nellis Air Force Base in Las Vegas and the first class will begin the program in July 2008.

Roll call on Assembly Bill No. 628:

YEAS—42.

NAYS—None.

Assembly Bill No. 628 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 12 noon.

ASSEMBLY IN SESSION

At 12:08 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bills Nos. 437 and 476, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN OCEGUERA, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 162, 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 Ways and Means, to which were referred Senate Bills Nos. 166, 466, 575, 576, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 393, Amendment No. 1141, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 424.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 443.

Also, I have the honor to inform your honorable body that the Senate on this day refused to adopt the report of the first Conference Committee concerning Assembly Bill No. 461.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 387.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 387.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 162.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1154.

SUMMARY— ~~[Provides for the establishment of and the transfer of certain abandoned property to the Nevada Veterans' Museum.]~~ **Makes various changes concerning military service.** (BDR 33-775)

AN ACT relating to ~~[the Department of Cultural Affairs;]~~ **military service;** establishing the Nevada Veterans' Museum as an institution of the Division of Museums and History of the Department ~~[,]~~ **of Cultural Affairs;** authorizing the transfer of certain abandoned property to the Nevada Veterans' Museum; **providing that the Board of Regents of the University of Nevada may grant a waiver of certain fees for the child, widow or widower of a person who was killed while he was performing his duties as a member of the Nevada National Guard; revising provisions that provide certain benefits for licenses, tags or permits for hunting, fishing or trapping to certain members of the Armed Forces of the United States and their families to provide those benefits to certain members of the Nevada National Guard and their families; authorizing the Department of Wildlife to issue, under certain circumstances, a fishing or hunting license to a member of the Nevada National Guard who is a bona fide resident of this State;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes several museums and societies within the Division of Museums and History of the Department of Cultural Affairs, and provides that the duties of such museums and societies are assigned by the Administrator of the Division. (NRS 381.004) Section 1 of this bill establishes the Nevada Veterans' Museum as an institution of the Division.

Under existing law, certain abandoned property held by certain businesses and governmental entities must be turned over to the State Treasurer in his capacity as the Administrator of Unclaimed Property. (Chapter 120A of

NRS) Section 2 of this bill includes the Nevada Veterans' Museum as an entity to which such abandoned property may be transferred under certain circumstances. (NRS 120A.360)

Existing law authorizes the Board of Regents of the University of Nevada to waive certain fees for a member of the Nevada National Guard or a recruit for the Nevada National Guard. (NRS 396.544) Additionally, existing law requires the Board of Regents to pay certain fees for the dependent child of a police officer, firefighter, officer of the Nevada Highway Patrol or volunteer ambulance driver or attendant killed while performing his duties. (NRS 396.545) Section 2.2 of this bill authorizes the Board of Regents to waive certain fees for any child, widow or widower of a person who was killed while he was performing his duties as a member of the Nevada National Guard.

Existing law provides certain benefits relating to obtaining licenses, tags or permits for hunting, fishing or trapping to certain members of the Armed Forces of the United States and their families. (NRS 502.070, 502.290) Sections 2.4 and 2.6 of this bill extend those benefits to certain members of the Nevada National Guard and their families.

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

Section 1. NRS 381.004 is hereby amended to read as follows:

381.004 1. The Division of Museums and History is hereby created in the Department.

2. The Division consists of the Office of the Administrator and a state system of museums consisting of the following museums and historical societies, which are hereby established as institutions of the Division:

(a) The Nevada State Museum;

(b) The Lost City Museum;

(c) The Nevada Museum and Historical Society;

(d) The Nevada Historical Society;

(e) The East Ely Depot Museum;

(f) The Nevada State Railroad Museum in Carson City; ~~[and]~~

(g) The Nevada State Railroad Museum in Boulder City ~~[.]~~ ***; and***

(h) The Nevada Veterans' Museum.

3. Each institution shall, in accordance with the duties assigned to it by the Administrator, collect, preserve and interpret the history, prehistory and natural history of this State.

Sec. 2. NRS 120A.360 is hereby amended to read as follows:

120A.360 1. Except as otherwise provided in subsections 4, 5 and 6, all abandoned property other than money delivered to the Administrator under this chapter must, within 2 years after the delivery, be sold by the Administrator to the highest bidder at public sale in whatever manner affords in his judgment the most favorable market for the property involved. The

Administrator may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient.

2. Any sale held under this section must be preceded by a single publication of notice thereof at least 2 weeks in advance of the sale in a newspaper of general circulation in the county where the property is to be sold.

3. The purchaser at any sale conducted by the Administrator pursuant to this chapter is vested with title to the property purchased, free from all claims of the owner or prior holder and of all persons claiming through or under them. The Administrator shall execute all documents necessary to complete the transfer of title.

4. The Administrator need not offer any property for sale if, in his opinion, the probable cost of the sale exceeds the value of the property. The Administrator may destroy or otherwise dispose of such property or may transfer it to:

(a) The Nevada Museum and Historical Society, the Nevada State Museum **,** ~~[or]~~ the Nevada Historical Society ~~[,]~~ ***or the Nevada Veterans' Museum,*** upon its written request, if the property has, in the opinion of the requesting institution, historical, artistic **,** ~~[or]~~ literary ***or military*** value ***, as applicable,*** and is worthy of preservation; ***or***

(b) A genealogical library, upon its written request, if the property has genealogical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum **,** ~~[or]~~ the Nevada Historical Society ~~[; or~~

~~(c) A veterans' or military museum, upon its written request, if the property has military or military historical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum]~~ or the Nevada ~~[Historical Society.]~~ ***Veterans' Museum.***

➥ An action may not be maintained by any person against the holder of the property because of that transfer, disposal or destruction.

5. Securities listed on an established stock exchange must be sold at the prevailing price for that security on the exchange at the time of sale. Other securities not listed on an established stock exchange may be sold:

(a) Over the counter at the prevailing price for that security at the time of sale; or

(b) By any other method the Administrator deems acceptable.

6. The Administrator shall hold property that was removed from a safe-deposit box or other safekeeping repository for 1 year after the date of the delivery of the property to the Administrator, unless that property is a will or a codicil to a will, in which case the Administrator shall hold the property for 10 years after the date of the delivery of the property to the Administrator. If no claims are filed for the property within that period, it may be destroyed.

Sec. 2.2. **Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The Board of Regents may grant a waiver of registration fees and laboratory fees for any child, widow or widower of a person who was killed

while he was performing his duties as a member of the Nevada National Guard. For the purpose of assessing fees and charges against a person to whom a waiver is granted pursuant to this subsection, including, without limitation, tuition charges pursuant to NRS 396.540, the person shall be deemed to be a bona fide resident of this State.

2. To be eligible for a waiver pursuant to subsection 1, a person must maintain at least a 3.25 grade point average, on a 4.0 grading scale, each semester, or the equivalent of a 3.25 grade point average if a different grading scale is used and:

(a) Be the widow or widower of the member of the Nevada National Guard; or

(b) Be the child of the member of the Nevada National Guard.

3. A widow or widower is eligible for 4 years after the date of the death of the member of the Nevada National Guard. A child is eligible for 4 years after he attains the age of 18 years or, if he enrolls in the System before the age of 18 years, for 4 years after the date of his enrollment.

4. The Board of Regents may request the Adjutant General to verify that a person is the widow, widower or child of a person who was killed while he was performing his duties as a member of the Nevada National Guard. The Adjutant General shall, upon receiving such a request, notify the Board of Regents in writing concerning the status of that person.

Sec. 2.4. **NRS 502.070 is hereby amended to read as follows:**

502.070 1. The Department shall issue to any member of the Armed Forces of the United States who has been assigned to permanent duty, as opposed to temporary or casual duty, within the State of Nevada ***or to any member in good standing of the Nevada National Guard who has served on active duty*** all necessary hunting or fishing licenses, tags or permits for fishing, hunting or trapping in the State of Nevada. A like privilege must be extended to spouses and dependents, under the age of 21, of ~~[such]~~ ***those*** members of the Armed Forces ~~[. All such]~~ ***or the Nevada National Guard. The*** licenses, tags or permits must be issued on the same terms and conditions and at the same costs as licenses, tags or permits are issued to Nevada residents, except that the 6 months' residence requirement must be waived.

2. The issuance of ~~[all such]~~ ***the*** licenses, tags and permits must be made by application upon a form provided for that purpose by the Department. The application must include such proof of assignment to permanent duty within the State of Nevada ***or proof of service on active duty and membership in good standing in the Nevada National Guard*** as may be deemed necessary by the Department to determine whether or not an applicant is ~~[actually so assigned.]~~ ***eligible for a license, tag or permit pursuant to subsection 1.***

Sec. 2.6. **NRS 502.290 is hereby amended to read as follows:**

502.290 1. The ~~[Commission is authorized to issue to those persons serving in the Armed Forces of the United States who are bona fide residents of the State of Nevada]~~ ***Department may issue*** fishing or hunting licenses,

upon the payment of $5 for each license, ~~[provided those persons requesting the licenses are at the time on]~~ ***to any person who is a bona fide resident of the State of Nevada and is:***

(a) On active duty in the Armed Forces of the United States ~~[and are not stationed in the State of Nevada.]~~ ***; or***

(b) A member in good standing of the Nevada National Guard who has served on active duty.

2. The ~~[Commission]~~ ***Department*** may require whatever proof it deems necessary to determine whether ~~[such persons come within]~~ ***a person is subject to*** the provisions of this section.

3. ***If the Department incurs a deficiency caused by the issuance of licenses pursuant to this section, the Department may request an allocation from the Contingency Fund pursuant to NRS 353.266, 353.268 and 353.269 to reimburse the Department for the amount of the deficiency.***

4. Any person who is guilty of giving false information to obtain a license as provided in this section is guilty of a misdemeanor.

Sec. 3. **1.** This **section and sections 1 and 2 of this** act ~~[becomes]~~ **become** effective on July 1, 2007.

2. Sections 2.2, 2.4 and 2.6 of this act become effective on October 1, 2007.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 166.

Bill read third time.

Roll call on Senate Bill No. 166:

YEAS—42.

NAYS—None.

Senate Bill No. 166 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 437.

Bill read third time.

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

Amendment No. 1146.

SUMMARY—Revises provisions concerning ~~[generation and consumption of energy.]~~ **economic and energy development.** (BDR 58-232)

AN ACT relating to **economic and** energy ~~[; replacing the Solar Energy Systems Demonstration Program Act with]~~ **development; enacting** the Solar Energy Systems Incentive Program **,** ~~[, which provides incentives to certain participants and utilities for energy created from various solar energy systems; providing for]~~ the Renewable Energy School Pilot Program ~~[, which~~

~~encourages the development of and determines the feasibility for renewable energy systems on public school properties;]~~ **and the Wind and Waterpower Energy Systems Demonstration Program Acts;** establishing a new program for evaluating the energy consumption of residential property; revising legislative findings concerning energy conservation and energy requirements; ~~[allocating a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program for improving energy conservation and energy efficiency in residential property;]~~ requiring certain electric utilities to make quarterly rate adjustments; requiring the creation of various methods and programs to remove financial disincentives that may discourage energy conservation by various public utilities that purchase natural gas for resale; ~~[making various changes relating to the definition of "net metering system"; making various changes relating to offers of net metering to customer-generators; making various changes relating to calculations of net energy measurements concerning net metering systems; changing the definition of "energy efficiency measure," as regards certain persons or entities that sell electricity to retail customers; changing the amount of electricity required to be generated, acquired or saved from solar renewable energy systems, as regards certain persons or entities that sell electricity to retail customers; making various changes relating to the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation;]~~ **revising various provisions governing utility resource planning and the portfolio standard for providers of electric service;** requiring certain residential properties for sale to be evaluated based on energy consumption and requiring that certain evaluations be provided to purchasers of those properties; ~~[enacting the Wind Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various wind energy systems; enacting the Waterpower Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various waterpower energy systems;]~~ **revising various provisions governing partial abatements of certain taxes by the Commission on Economic Development;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 7 of this session superseded by statute the holding of the Nevada Supreme Court in *Nevada Power Company v. Public Utilities Commission of Nevada*, 122 Nev. Adv. Op. 72 (2006), and established as the public policy of this State that in proceedings involving deferred energy accounting by a public utility, there is no presumption that the public utility's practices and transactions were reasonable or prudent and the public utility has the burden of proving reasonableness and prudence in such proceedings. (Chapter 163, Statutes of Nevada 2007) Section 1 of this bill provides that in amending NRS 704.110 and 704.187 to allow for quarterly rate adjustments and annual deferred energy

accounting adjustment applications by certain electric utilities, this bill is not intended to repeal the provisions of Assembly Bill No. 7 either expressly or by implication.

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections ~~[1-29]~~ **1.5-29, 108** and 112 of this bill replace the Solar Energy Systems Demonstration Program Act with a new chapter of NRS which provides for the Solar Energy Systems Incentive Program. The Solar Energy Systems Incentive Program provides incentives to certain participants and utilities for energy created from various solar energy systems.

Section 30 of this bill provides for the Renewable Energy School Pilot Program. The goal of the Program is to encourage the development of and determine the feasibility for renewable energy systems on public school properties.

Sections 62-86 of this bill enact the Wind Energy Systems Demonstration Program Act. The Wind Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Sections 87-106 of this bill enact the Waterpower Energy Systems Demonstration Program Act. The Waterpower Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various waterpower energy systems. Under this bill, the Waterpower Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Existing law provides various requirements relating to the sale of residential property. (NRS 113.100-113.150, 645.230-645.321) Sections 31 ~~[, 33-35]~~ and 50 of this bill: (1) establish a new program for evaluating the energy consumption of residential property; ~~[(2) allocate a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program of improving energy conservation and energy efficiency in residential property; and (3)]~~ **and (2)** require certain residential properties for sale to be evaluated based on energy consumption and require that such evaluations and ratings be provided to purchasers of those properties.

Existing law contains legislative findings concerning energy conservation and energy requirements. (NRS 701.010) Sections 32 and 38 of this bill accomplish two things. First, they revise those findings in relation to public utilities. Second, they require the creation of various methods and programs which will remove financial disincentives that discourage energy conservation by various public utilities that purchase natural gas for resale.

Existing law allows for quarterly rate adjustments for a public utility which purchases natural gas for resale. (NRS 704.110) Sections 36, 37, 39-43 and 51 of this bill require certain electric utilities to ~~[also make such]~~ **make** quarterly rate adjustments ~~[.]~~ **and to file annual deferred energy accounting adjustment applications.**

~~[Existing law provides for requirements relating to electric utilities and net metering systems. (NRS 704.766-704.775) Existing law also provides for requirements relating to the construction of utility facilities and environmental conservation as cited in the Utility Environmental Protection Act. (NRS 704.820-704.900) Sections 44-46 and 49 of this bill make various changes relating to the definition of "net metering system," offers of net metering to customer-generators, calculations relating to net energy measurements as regards net metering systems, and the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation.]~~

Existing law requires certain electric utilities to develop long-term resource plans. (NRS 704.741-704.751) Section 43.5 of this bill requires such utilities to include in their long-term resource plans an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel.

Existing law requires certain persons or entities that sell electricity to retail customers to generate, acquire or save various amounts of electricity through renewable energy systems or efficiency measures. (NRS 704.7801-704.7828) Sections 47 and 48 of this bill change the definition of "energy efficiency measure" and the amount of electricity required to be generated, acquired or saved from solar renewable energy systems.

Existing law authorizes the Commission on Economic Development to approve partial abatements of certain taxes imposed on new or expanded businesses, including businesses that use renewable energy or recycled material to generate electricity. (NRS 360.750, 361.0685, 361.0687, 374.357) Sections 51.3, 51.7 and 112.5 of this bill require a business that receives such a partial abatement to: (1) allow the Department of Taxation to conduct audits of the business to determine whether it is in compliance with the requirements for the partial abatement; and (2) consent to the disclosure of the audit reports to the Commission on Economic Development and to the public with certain limited exceptions.

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

Section 1. **The Legislature hereby finds and declares that:**

1. Assembly Bill No. 7 of this session was enacted into law as chapter 163, Statutes of Nevada 2007, and became effective upon passage and approval on May 29, 2007.

2. Assembly Bill No. 7 established as the public policy of this State that in proceedings involving deferred energy accounting where a public utility seeks to recover from its ratepayers costs recorded in its deferred accounts pursuant to NRS 704.185 or 704.187, it is just and reasonable to require a public utility to prove that the costs recorded in its deferred accounts were incurred prudently. Therefore, to ensure that ratepayers do not pay for costs incurred as a result of any practices or transactions that were undertaken, managed or performed imprudently, the public utility should have the burden of proving that its practices and transactions were reasonable and prudent.

3. In *Nevada Power Company v. Public Utilities Commission of Nevada*, 122 Nev. Adv. Op. 72 (2006), the Nevada Supreme Court held that, in the absence of a statute to the contrary, the controlling procedure in proceedings involving deferred energy accounting is the rebuttable presumption of prudence adopted by the Public Utilities Commission of Nevada in the 1986 rate case of *Re Nevada Power Company*, 74 Pub. Util. Rep. 4th 703 (Nev. Pub. Serv. Comm'n May 30, 1986).

4. Assembly Bill No. 7 was enacted to supersede the holding of the Nevada Supreme Court in *Nevada Power Company v. Public Utilities Commission of Nevada*, 122 Nev. Adv. Op. 72 (2006), to the extent that the Court determined that the rebuttable presumption of prudence is the controlling procedure in proceedings involving deferred energy accounting.

5. With regard to electric utilities that engage in deferred energy accounting, the provisions of this act amend NRS 704.110 and 704.187 to provide for quarterly rate adjustments and annual deferred energy accounting adjustment applications by such electric utilities. In amending NRS 704.110 and 704.187, the Legislature does not intend to repeal either expressly or by implication the provisions of Assembly Bill No. 7 which supersede the holding of the Nevada Supreme Court in *Nevada Power Company v. Public Utilities Commission of Nevada*, 122 Nev. Adv. Op. 72 (2006). Therefore, to effectuate the public policy of this State as enacted by Assembly Bill No. 7:

(a) For proceedings involving annual deferred energy accounting adjustment applications, the provisions of this act expressly provide that there is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in such proceedings.

(b) For all other proceedings involving deferred energy accounting, the provisions of this act do not repeal the provisions of Assembly Bill No. 7 either expressly or by implication and those proceedings remain

subject to the provisions of Assembly Bill No. 7, notwithstanding the provisions of this act amending NRS 704.110 and 704.187.

~~[Section 1.]~~ ***Sec. 1.5.*** Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. ***The provisions of sections 2 to 29, inclusive, of this act apply to the Solar Energy Systems Incentive Program.***

Sec. 3. ***As used in sections 2 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 19, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Applicant" means a person who is applying to participate in the Solar Program.***

Sec. 5. ***"Category" means one of the categories of participation in the Solar Program as set forth in section 23 of this act.***

Sec. 6. ***"Commission" means the Public Utilities Commission of Nevada.***

Sec. 7. ***"Institution of higher education" means:***

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 8. ***"Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.***

Sec. 9. ***"Participant" means a person who has been selected by the ~~[Commission]~~ Task Force to participate in the Solar Program.***

Sec. 10. ***"Person" includes, without limitation, a public entity.***

Sec. 11. ***"Program year" means the period of July 1 to June 30 of the following year.***

Sec. 12. ***1. "Public and other property" means any real property, building or facilities which are owned, leased or occupied by:***

(a) A public entity;

(b) A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended; or

(c) A corporation for public benefit as defined in NRS 82.021.

2. The term includes, without limitation, any real property, building or facilities which are owned, leased or occupied by:

(a) A church; or

(b) A benevolent, fraternal or charitable lodge, society or association.

3. The term does not include school property.

Sec. 13. ***"Public entity" means a department, agency or instrumentality of the State or any of its political subdivisions.***

Sec. 14. ***"School property" means any real property, building or facilities which are owned, leased or occupied by:***

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 15. ***"Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.***

Sec. 16. ***"Solar energy system" means a facility or energy system that uses photovoltaic cells and solar energy to generate electricity.***

Sec. 17. ***"Solar Program" means the Solar Energy Systems Incentive Program created by section 23 of this act.***

Sec. 18. ***"Task Force" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.***

Sec. 19. ***"Utility" means a public utility that supplies electricity in this State.***

Sec. 20. ***The Commission shall adopt regulations necessary to carry out the provisions of sections 2 to 29, inclusive, of this ~~[chapter,]~~ act, including, without limitation, regulations that establish:***

1. The type of incentives available to participants in the Solar Program and the level or amount of those incentives;

2. The requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

Sec. 21. ***~~[In consultation with the Task Force, the]~~ The Commission shall adopt regulations that establish:***

1. The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property; and

2. The form and content of the master application which a utility must submit to the ~~[Commission]~~ Task Force pursuant to section 24 of this act.

Sec. 22. ***1. Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area for a program year.***

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 23. ***1. The Solar Energy Systems Incentive Program is hereby created.***

2. The Solar Program must have three categories as follows:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 21 of this act;

(b) Submit an application to a utility and be selected by the ~~[Commission]~~ Task Force for inclusion in the Solar Program pursuant to sections 24 and 25 of this act;

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 24. ***1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the category of school property or***

public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.

2. Each year on or before the date established by the Commission, a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program and submit to the ~~[Commission:]~~ Task Force:

(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and

(b) A master application containing all the applications recommended by the utility.

3. At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to section 25 of this act.

Sec. 25. ***1. Except as otherwise provided in ~~[subsection 2,]~~ this section, the Commission may approve, for a program year, solar energy systems:***

(a) Totaling ~~[1,000]~~ 2,000 kilowatts of capacity for school property;

(b) Totaling 760 kilowatts of capacity for public and other property; and

(c) Totaling 1,000 kilowatts of capacity for private residential property and small business property.

2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications to the Task Force from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories,

↳ but in no case may the sum of the allocated total capacities of all the categories be greater than ~~[2,760]~~ 3,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.

3. To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.

4. After reviewing the master application submitted by a utility pursuant to section 24 of this act ~~[, to ensure]~~ and ensuring that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the ~~[Commission]~~ Task Force shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program if any capacity within a category becomes available.

~~[4.]~~ 5. Not later than 30 days after the date on which the ~~[Commission]~~ Task Force selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the ~~[Commission]~~ Task Force on behalf of the applicant shall provide written notice of the selection to the applicant.

~~[5.]~~ 6. After the ~~[Commission]~~ Task Force selects an applicant to be on the list of participants, the utility which submitted the application to the ~~[Commission]~~ Task Force on behalf of the applicant may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection 3 of section 24 of this act, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.

Sec. 26. ***1. Except as otherwise provided in this section, if the Commission determines that a participant has not complied with the requirements for participation in the Solar Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Solar Program.***

2. The Commission may, without notice or an opportunity for a hearing, withdraw from the Solar Program:

(a) A participant in the category of private residential property and small business property, if the participant does not complete the installation of a solar energy system within 12 months after the date the participant receives written notice of his selection to participate in the Solar Program.

(b) A participant in the category of school property or public and other property, if the participant does not complete the installation of a solar energy system within 30 months after the date the participant receives written notice of his selection to participate in the Solar Program.

3. A participant who is withdrawn from the Solar Program pursuant to subsection 2 forfeits any incentives.

Sec. 27. ***In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program.***

Sec. 28. ***If a solar energy system used by a participant in the Solar Program meets the requirements of NRS 704.766 to 704.775, inclusive, the***

participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 29. ***1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821.***

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.

Sec. 30. ***1. The Renewable Energy School Pilot Program is hereby created. The goal of the Program is to encourage the development of and determine the feasibility for the integration of renewable energy systems on school properties.***

2. The Commission shall adopt regulations for the Program. Such regulations shall include, but not be limited to:

(a) A time frame for implementation of the Program;

(b) The allowed renewable energy systems and combinations of such renewable energy systems on school property;

(c) The amount of capacity that may be installed at each school property that participates in the Program;

(d) A process by which a school district may apply for participation in the Program;

(e) Requirements for participation by a school district;

(f) The type of transactions allowed between a renewable energy system generator, a school district and a utility;

(g) Incentives which may be provided to a school district or school property to encourage participation; and

(h) Such other parameters as determined by the Commission and are consistent with the development of renewable energy systems at school properties.

3. The Program shall be limited to 10 school properties. Not more than 6 school properties from any one school district may participate in the Program.

4. The Commission shall adopt the regulations necessary to implement the Program not later than March 1, 2008.

5. The Commission shall prepare a report detailing the results of the Program and shall submit the report to the Legislature by December 1, 2008.

6. As used in this section:

(a) "Commission" means the Public Utilities Commission of Nevada.

(b) "Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.

(c) "Renewable energy system" has the meaning ascribed to it in NRS 704.7815.

(d) "School district" has the meaning ascribed to it in NRS 395.0075.

(e) "School property" means any real property, building or facilities which are owned, leased or occupied by a public school as defined in NRS 385.007.

(f) "Utility" has the meaning ascribed to it in section 19 of this act.

Sec. 31. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.

2. The regulations must include, without limitation:

(a) Standards for evaluating the energy consumption of residential property; and

(b) Provisions prescribing a form to be used pursuant to section 50 of this act, including, without limitation, provisions that require a portion of the form to provide information on ~~[the program]~~ programs of improving energy conservation and energy efficiency in residential property . ~~[created pursuant to section 33 of this act.]~~

3. As used in this section:

(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.

Sec. 32. NRS 701.010 is hereby amended to read as follows:

701.010 1. The Legislature finds that:

(a) Energy is essential to the economy of the State and to the health, safety and welfare of the people of the State.

(b) The State has a responsibility to encourage the maintenance of a reliable and economical supply of energy at a level which is consistent with the protection of environmental quality.

(c) The State has a responsibility to encourage the utilization of a wide range of measures which reduce wasteful uses of energy resources.

(d) ***The State and the public have an interest in encouraging public utilities to promote and take actions toward energy conservation.***

(e) Planning for energy conservation and future energy requirements should include consideration of state, regional and local plans for land use, urban expansion, transportation systems, environmental protection and economic development.

~~[(e)]~~ ***(f)*** Government and private enterprise need to accelerate research and development of sources of renewable energy and to improve technology related to the research and development of existing sources of energy.

~~[(f)]~~ ***(g)*** While government and private enterprise are seeking to accelerate research and development of sources of renewable energy, they must also prepare for and respond to the advent of competition within the electrical energy industry and are, therefore, encouraged to maximize the use of indigenous energy resources to the extent competitively and economically feasible.

~~[(g)]~~ ***(h)*** Prevention of delays and interruptions in providing energy, protecting environmental values and conserving energy require expanded authority and capability within State Government.

2. It is the policy of this State to encourage participation with all levels of government and private enterprise in cooperative state, regional and national programs to assure adequate supplies of energy resources and markets for such energy resources.

3. It is the policy of this State to assign the responsibility for managing and conserving energy and its sources to agencies whose other programs are similar, to avoid duplication of effort in developing policies and programs for energy.

Sec. 33. ~~[Chapter 702 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. At the beginning of a fiscal year, 50 percent of the money in the Fund which was allocated to the Division of Welfare and Supportive Services during the preceding fiscal year pursuant to NRS 702.260 and which remains unspent and unencumbered must be distributed to the Housing Division for a program of improving energy conservation and energy efficiency in residential property. The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.*~~

~~*2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in section 31 of this act with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.*~~

~~*3. To be eligible to receive assistance from the Housing Division pursuant to this section:*~~

~~*(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and*~~

(b) The residential property must not meet the standards for energy consumption established pursuant to section 31 of this act.

4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.

5. In carrying out the provisions of this section, the Housing Division shall:

(a) Solicit advice from the Division of Welfare and Supportive Services and from other knowledgeable persons;

(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;

(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;

(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;

(e) Establish a process for evaluating the program conducted pursuant to this section;

(f) Develop a process for making changes to the program; and

(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services as required by NRS 702.280.] **(Deleted by amendment.)**

Sec. 34. [NRS 702.250 is hereby amended to read as follows:

702.250 1. There is hereby created as a special revenue fund in the State Treasury the Fund for Energy Assistance and Conservation. The Division of Welfare and Supportive Services shall administer the Fund.

2. In addition to the money that must be credited to the Fund from the universal energy charge, all money received from private or public sources to carry out the purposes of this chapter must be deposited in the State Treasury for credit to the Fund.

3. The Division shall, to the extent practicable, ensure that the money in the Fund is administered in a manner which is coordinated with all other sources of money that are available for energy assistance and conservation, including, without limitation, money contributed from private sources, money obtained from the Federal Government and money obtained from any agency or instrumentality of this State or political subdivision of this State.

4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

5. After deduction of any refunds paid from the Fund pursuant to NRS 702.160, the money in the Fund must be distributed pursuant to NRS 702.260 and 702.270 [.] *and section 33 of this act.]* **(Deleted by amendment.)**

Sec. 35. [NRS 702.280 is hereby amended to read as follows:

~~702.280 1. The Division of Welfare and Supportive Services and the Housing Division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the Divisions shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:~~

~~(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;~~

~~(b) The efforts that will be undertaken to improve administrative efficiency;~~

~~(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade organizations that provide energy assistance or conservation services to low-income persons;~~

~~(d) The measures concerning program design that will be undertaken to improve program effectiveness; and~~

~~(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.~~

~~2. The Division of Welfare and Supportive Services and the Housing Division jointly shall:~~

~~(a) Conduct an annual evaluation of the programs that each Division carries out pursuant to NRS 702.260 and 702.270 [;] *and section 33 of this act;*~~

~~(b) Solicit advice from the Commission as part of the annual evaluation; and~~

~~(c) Prepare a report concerning the annual evaluation and submit the report to the Governor, the Legislative Commission and the Interim Finance Committee.~~

~~3. The report prepared pursuant to subsection 2 must include, without limitation:~~

~~(a) A description of the objectives of each program;~~

~~(b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;~~

~~(c) The amount of money distributed from the Fund for each program and a detailed description of the use of that money for each program;~~

~~(d) An analysis of the coordination between the Divisions concerning each program; and~~

~~(e) Any changes planned for each program.]~~ **(Deleted by amendment.)**

Sec. 36. NRS 703.130 is hereby amended to read as follows:

703.130 1. The Commission shall appoint a Deputy Commissioner who shall serve in the unclassified service of the State.

2. The Commission shall appoint a Secretary who shall perform such administrative and other duties as are prescribed by the Commission. The Commission shall also appoint an Assistant Secretary.

3. The Commission may employ such other clerks, experts or engineers as may be necessary.

4. Except as otherwise provided in subsection 5, the Commission:

(a) May appoint one or more hearing officers for a period specified by the Commission to conduct proceedings or hearings that may be conducted by the Commission pursuant to NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705, 708 and 711 of NRS.

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the Commission.

5. The Commission shall not appoint a hearing officer to conduct proceedings or hearings:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) In any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an ***annual deferred energy accounting adjustment*** application **.** ~~[to clear its deferred accounts.]~~

6. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 37. NRS 703.320 is hereby amended to read as follows:

703.320 Except as otherwise provided in ~~[subsection 8]~~ ***subsections 8 and 9*** of NRS 704.110:

1. In any matter pending before the Commission, if a hearing is required by a specific statute or is otherwise required by the Commission, the Commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The Commission shall by regulation specify:

(a) The manner of giving notice in each type of proceeding; and

(b) The persons entitled to notice in each type of proceeding.

2. The Commission shall not dispense with a hearing:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) Except as otherwise provided in ***paragraph (f) of*** subsection ~~[5]~~ ***1*** of NRS 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an ~~[application to clear its deferred accounts.]~~ ***annual deferred energy accounting adjustment application pursuant to NRS 704.187.***

3. In any other matter pending before the Commission, the Commission may dispense with a hearing and act upon the matter pending unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the Commission a request that the hearing be held. If such a request for a hearing is filed, the Commission shall give at least 10 days' notice of the hearing.

4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 38. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission shall adopt regulations to establish methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation, including, without limitation:

(a) Procedures for a public utility which purchases natural gas for resale to have a mechanism established during a general rate application filed pursuant to NRS 704.110 to ensure that the costs of the public utility for providing service are recovered without regard to the difference in the quantity of natural gas actually sold by the public utility by taking into account the adjusted and annualized quantity of natural gas sold during a test year and the growth in the number of customers of the public utility;

(b) Procedures for a public utility which purchases natural gas for resale to apply to the Commission for approval of an activity relating to increasing energy efficiency or energy conservation; and

(c) Procedures for a public utility which purchases natural gas for resale to apply to the Commission for the recovery of costs associated with an activity approved by the Commission pursuant to paragraph (b).

2. The regulations adopted pursuant to subsection 1 must ensure that the methods and programs consider the recovery of costs, stabilization of revenue and any reduction of risk for the public utility which purchases natural gas for resale.

Sec. 39. NRS 704.062 is hereby amended to read as follows:

704.062 "Application to make changes in any schedule" and "application" include, without limitation:

1. A general rate application;

2. An application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale; and

3. An ***annual deferred energy accounting adjustment*** application ***.*** ~~[to clear deferred accounts.]~~

Sec. 40. NRS 704.069 is hereby amended to read as follows:

704.069 1. Except as otherwise provided in ~~[subsection 8]~~ ***subsections 8 and 9*** of NRS 704.110, the Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale ~~[or an application to clear its deferred accounts ;]~~ ***, an annual deferred energy accounting adjustment application pursuant to NRS 704.187 or an annual rate adjustment application;*** and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the Commission shall, during each calendar year, conduct at least one general consumer session in the county with the largest population in this State and at least one general consumer session in the county with the second largest population in this State. At each general consumer session, the Commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the Commission shall submit the record from the general consumer session to the Legislative Commission.

Sec. 41. NRS 704.100 is hereby amended to read as follows:

704.100 ***1.*** Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

~~[1.]~~ ***(a)*** A public utility shall not make changes in any schedule, unless the public utility:

~~[(a)]~~ ***(1)*** Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

~~[(b)]~~ ***(2)*** Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of ~~[subsection 5.~~

~~2.]~~ ***paragraph (f).***

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

~~[3.]~~ ***(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 9 of NRS 704.110.***

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

~~[4.]~~ ***(e)*** A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

~~[5.]~~ ***(f)*** Except as otherwise provided in ~~[subsection 6,]~~ ***paragraph (g),*** if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed $2,500:

~~[(a)]~~ ***(1)*** The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

~~[(b)]~~ ***(2)*** The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~[6.]~~ ***(g)*** If the applicant is a public utility furnishing telephone service and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~[7.]~~ ***(h)*** In making the determination pursuant to ~~[subsection 5 or 6,]~~ ***paragraph (f) or (g),*** the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 42. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an ***annual deferred energy accounting adjustment*** application ***,*** ~~[to clear its deferred accounts,]~~ the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsections 3 and ~~[13,]~~ ***12,*** if a public utility files with the Commission an application to make changes in any schedule, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes:

(a) For a public utility that is a PAR carrier, not later than 180 days after the date on which the application is filed; and

(b) For all other public utilities, not later than 210 days after the date on which the application is filed.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall

consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. An electric utility shall file a general rate application pursuant to this subsection at least once every 24 ~~[36]~~ months based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application on or before October 3, 2005, ~~[December 3, 2007,]~~ and at least once every 24 ~~[36]~~ months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application on or before November 15, 2006, ~~[December 3, 2008,]~~ and at least once every 24 ~~[36]~~ months thereafter.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility which purchases natural gas for resale ~~[or an electric utility]~~ may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7 ***, a quarterly rate adjustment pursuant to subsection 8 or 9, any information relating to deferred accounting requirements pursuant to NRS 704.185*** or an ***annual deferred energy accounting adjustment*** application ~~[to clear its deferred accounts pursuant to subsection 9,]~~ ***pursuant to NRS 704.187,*** if the public utility is otherwise authorized ***to so file*** by those provisions ***.*** ~~[to file such an application.]~~

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility ~~[using deferred accounting pursuant to NRS 704.187;]~~ ***which is required to adjust its rates on a quarterly basis pursuant to subsection 9;*** or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's

regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. ~~[Except as otherwise provided in subsection 10 and subsection 5 of NRS 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:~~

~~(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the Commission.~~

~~(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility.~~

~~10. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 9, the Commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this State for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The Commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility. There is no presumption that any practice or transaction was undertaken, managed or performed prudently by an electric utility applying to the Commission to clear its deferred accounts or to recover costs for purchased fuel and purchased power, and the electric utility has the burden of proving that the practices and transactions of the electric utility were reasonable and prudent.~~

~~11.~~] ***An electric utility shall adjust its rates on a quarterly basis based on changes in the public utility's recorded costs of purchased fuel or purchased power in the following manner:***

(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) Each electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

10. If an electric utility files an ***annual deferred energy accounting adjustment*** application ~~[to clear its deferred accounts]~~ pursuant to subsection 9 ***and NRS 704.187*** while a general rate application is pending, the electric utility shall:

(a) Submit with its ***annual deferred energy accounting adjustment*** application ~~[to clear its deferred accounts]~~ information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

~~[12.]~~ ***11.*** A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

~~[13.]~~ ***12.*** A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.

~~[14.]~~ ***13.*** As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" ~~[has the meaning ascribed to it in NRS 704.187.]~~ ***means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.***

(c) "Electric utility that primarily serves less densely populated counties" ~~[has the meaning ascribed to it in NRS 704.187.]~~ ***means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.***

(d) "PAR carrier" has the meaning ascribed to it in NRS 704.68942.

Sec. 43. NRS 704.187 is hereby amended to read as follows:

704.187 1. ~~[Except as otherwise provided in section 36 of chapter 16, Statutes of Nevada 2001, beginning on March 1, 2001, an]~~ ***An*** electric utility that purchases fuel or power shall use deferred accounting by recording upon its books and records in deferred accounts all increases and decreases in costs for purchased fuel and purchased power that are prudently incurred by the electric utility.

2. An electric utility using deferred accounting shall include in its annual report to the Commission a statement showing, for the period of recovery, the allocated rate of return for each of its operating departments in this State using deferred accounting. If, during the period of recovery, the rate of return for any operating department using deferred accounting is greater than the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility, the Commission shall order the electric utility that recovered costs for purchased fuel or purchased power through its rates during the reported period to transfer to the next energy adjustment

period that portion of the amount recovered by the electric utility that exceeds the authorized rate of return.

3. Except as otherwise provided in this section, an electric utility using deferred accounting shall file an annual ***deferred energy accounting adjustment*** application ~~[to clear its deferred accounts based on the following schedule:~~

~~(a) An electric utility that primarily serves less densely populated counties shall file an annual application to clear its deferred accounts on December 1, 2005, and in December]~~ ***on or before March 1, 2008, and on or before March 1*** of each year thereafter **.** ~~[on a date specified by the Commission.~~

~~(b) An electric utility that primarily serves densely populated counties shall file an annual application to clear its deferred accounts on January 17, 2006, and in January of each year thereafter on a date specified by the Commission.]~~

4. ~~[An electric utility using deferred accounting may file a semiannual application to clear its deferred accounts if the net change in revenues necessary to clear its deferred accounts for the reported period is more than 5 percent of the total revenues generated by the electric utility during that period from its rates for purchased fuel and purchased power most recently authorized by the Commission.~~

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

(a) ~~[“Application to clear its deferred accounts”]~~ ***“Annual deferred energy accounting adjustment application”*** means an application filed by an electric utility pursuant to this section and subsection 9 of NRS 704.110.

(b) ”Costs for purchased fuel and purchased power” means all costs which are prudently incurred by an electric utility and which are required to purchase fuel, to purchase capacity and to purchase energy. The term does not include any costs that the Commission determines are not recoverable pursuant to subsection ~~[10]~~ ***9*** of NRS 704.110.

(c) ”Electric utility” means any public utility or successor in interest that:

(1) Is in the business of providing electric service to customers;

(2) Holds a certificate of public convenience and necessity issued or transferred pursuant to this chapter; and

(3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of $250,000,000 or more in this State.

➥ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

~~[(d) ”Electric utility that primarily serves densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it~~

~~does from customers located in counties whose population is less than 400,000.~~

~~(c) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.]~~

Sec. 43.5. **NRS 704.741 is hereby amended to read as follows:**

704.741 1. A utility which supplies electricity in this state shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation, prescribe the contents of such a plan including, but not limited to, the methods or formulas which are used by the utility to:

(a) Forecast the future demands; and

(b) Determine the best combination of sources of supply to meet the demands or the best method to reduce them.

3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

Sec. 44. ~~[NRS 704.771 is hereby amended to read as follows:~~

~~704.771 *1.* "Net metering system" means a facility or energy system for the generation of electricity that:~~

~~[1.] *(a)* Uses renewable energy as its primary source of energy to generate electricity;~~

~~[2.] *(b)* Has a generating capacity of not more than [150 kilowatts;~~

~~3.] *1 megawatt;*~~

~~*(c)* Is located on the customer-generator's premises;~~

~~[4.] *(d)* Operates in parallel with the utility's transmission and distribution facilities; and~~

~~[5.] *(e)* Is intended primarily to offset part or all of the customer-generator's requirements for electricity.~~

~~*2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:*~~

~~*(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or*~~

~~*(b) One hundred fifty percent of the peak demand of the customer.]*~~

(Deleted by amendment.)

Sec. 45. ~~[NRS 704.773 is hereby amended to read as follows:~~

~~704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.~~

~~2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than [30] *100* kilowatts, the utility:~~

~~(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.~~

~~(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.~~

~~(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.~~

~~3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than [30] *100* kilowatts, the utility may:~~

~~(a) Require the customer-generator to install at its own cost [an] :~~

~~*(1) An* energy meter that is capable of measuring generation output and customer load [.] *; and*~~

~~*(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.*~~

~~(b) [Charge] *Except as otherwise provided in paragraph (c), charge* the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.~~

~~*(c) Not charge the customer-generator any standby charge.*~~

~~*→ At the time of installation or upgrade of any portion of a net metering system, the utility must require or allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.*~~

~~*4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:*~~

~~*(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:*~~

~~*(1) Metering equipment;*~~

~~*(2) Net energy measurement and billing; and*~~

~~*(3) Interconnection,*~~

~~*→ based on the allowable size of the net metering system.*~~

~~*(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.*~~

~~*(c) A timeline for processing applications and contracts for net metering applicants.*~~

~~*(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.]~~ **(Deleted by amendment.)**

Sec. 46. ~~[NRS 704.775 is hereby amended to read as follows:~~

~~704.775 1. The billing period for net metering must be a monthly period.~~

~~2. [If a customer-generator's net metering system has a capacity of not more than 30 kilowatts, the]~~ ~~*The* net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall measure, in kilowatt hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.~~

~~(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.~~

~~(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for electricity provided to the other during the billing period.~~

~~(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.~~

~~(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:~~

~~(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;~~

~~(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or~~

~~(III) The customer-generator transfers the net metering system to another person.~~

~~(4) The *value of the* excess electricity [which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a~~

~~renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~3. If a customer-generator's net metering system has a capacity of more than 30 kilowatts, the net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall:~~

~~(1) Measure, in kilowatt hours, the amount of electricity supplied by the utility to the customer-generator during the billing period and calculate its value using the tariff that would be applicable if the customer-generator did not use a net metering system; and~~

~~(2) Measure, in kilowatt hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.~~

~~(b) If the value of electricity supplied by the utility exceeds the value of the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net value of the electricity supplied by the utility.~~

~~(c) If the value of the electricity generated by the customer-generator which is fed back to the utility exceeds the value of the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for the value of the electricity provided to the other during the billing period.~~

~~(2) The value of the excess electricity:~~

~~(I) Must not be shown as a credit on the customer-generator's bill for that billing period but must be reflected as a credit that is carried forward to offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt hours. If the credit is reflected as excess electricity and the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer-generator ceases to be a customer of the utility at the premises served by the net metering system or the customer-generator transfers the net metering system to another person.~~

~~(II) Does not reduce any other fee or charge imposed by the utility.~~

~~(3) The excess electricity which is fed back to the utility]~~ ~~*must not be used to reduce any other fee or charge imposed by the utility.*~~

~~*3. If the cost of purchasing and installing a net metering system was paid for:*~~

~~*(a) In whole or in part by a utility, the electricity generated by the net metering system* shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~*(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.*~~

~~4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.]~~

(Deleted by amendment.)

Sec. 47. NRS 704.7802 is hereby amended to read as follows:

704.7802 1. "Energy efficiency measure" means any measure designed, intended or used to improve energy efficiency if:

(a) The measure is installed on or after January 1, 2005, at the service location of a retail customer of a provider of electric service in this State;

(b) The measure reduces the consumption of energy by the retail customer; and

(c) The costs of the acquisition or installation of the measure are directly reimbursed, in whole or in part, by the provider of electric service.

2. The term does not include ~~[:~~

~~(a) Any]~~ ***any*** demand response measure or load limiting measure that shifts the consumption of energy by a retail customer from one period to another period.

~~[(b) Any solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity or any fossil fuel.]~~

Sec. 48. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar year 2015 and for each calendar year thereafter, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than ~~[5]~~ ***6*** percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. If, for the benefit of one or more of its retail customers in this State, the provider has directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity

that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

5. Except as otherwise provided in subsection 6, each provider shall comply with its portfolio standard during each calendar year.

6. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

7. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

8. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 49. ~~[NRS 704.860 is hereby amended to read as follows:~~

~~704.860 "Utility facility" means:~~

~~1. Electric generating plants and their associated facilities, except:~~

~~(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or~~

~~(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than~~ [150 kilowatts,] ~~*1 megawatt*, including, without limitation, a net metering system, as defined in NRS 704.771.~~

~~➡ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.~~

~~2. Electric transmission lines and transmission substations that:~~

~~(a) Are designed to operate at 200 kilovolts or more;~~

~~(b) Are not required by local ordinance to be placed underground; and~~

~~(c) Are constructed outside any incorporated city.~~

~~3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:~~

~~(a) Any incorporated city; and~~

~~(b) Any county whose population is 100,000 or more.~~

~~4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.~~

~~5. Sewer transmission and treatment facilities.~~] **(Deleted by amendment.)**

Sec. 50. Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in section 31 of this act.

2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the Director of the Office of Energy, as prescribed in regulations adopted pursuant to section 31 of this act.

3. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

(d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.

Sec. 51. NRS 228.360 is hereby amended to read as follows:

228.360 The Consumer's Advocate:

1. Shall intervene in and represent the public interest in:

(a) All proceedings conducted pursuant to NRS 704.7561 to 704.7595, inclusive; and

(b) All proceedings conducted pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an ***annual deferred energy accounting adjustment*** application **.** ~~[to clear its deferred accounts.]~~

2. May, with respect to all public utilities except railroads and cooperative utilities, and except as otherwise provided in NRS 228.380:

(a) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

(b) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the Public Utilities Commission of Nevada in the same manner and to the same extent as authorized by law for members of the Public Utilities Commission of Nevada and its staff.

(c) Except as otherwise provided in subsection 1, petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the Public Utilities Commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the Consumer's Advocate may bring before or has brought before the Public Utilities Commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The Consumer's Advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

3. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 51.3. **Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If the Commission on Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750, the agreement with the Commission must provide that the business:

(a) Agrees to allow the Department to conduct audits of the business to determine whether the business is in compliance with the requirements for the partial abatement; and

(b) Consents to the disclosure of the audit reports in the manner set forth in this section.

2. If the Department conducts an audit of the business to determine whether the business is in compliance with the requirements for the partial abatement, the Department shall, upon request, provide the audit report to the Commission on Economic Development.

3. Until the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit, the information contained in the audit report provided to the Commission on Economic Development:

(a) Is confidential proprietary information of the business;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

4. After the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit:

(a) The audit report provided to the Commission on Economic Development is a public record; and

(b) Upon request by any person, the Executive Director of the Commission on Economic Development shall disclose the audit report to the person who made the request, except for any information in the audit report that is protected from disclosure pursuant to subsection 5.

5. Before the Executive Director of the Commission on Economic Development discloses the audit report to the public, the business may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director shall determine whether to protect the information from disclosure. The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:

(a) Is confidential proprietary information of the business;

(b) Is not a public record;

(c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and

(d) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

Sec. 51.7. **NRS 360.750 is hereby amended to read as follows:**

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which ~~[states]~~ ***must:***

(1) Comply with the requirements of section 51.3 of this act;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection ~~[. The agreement must bind]~~ ***; and***

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city

whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a

patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

8. A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

9. The Commission on Economic Development:

(a) Shall adopt regulations relating to:

(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

(2) The notice that must be provided pursuant to subsection 4.

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section [.] ***and section 51.3 of this act.***

10. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section ~~[.]~~ ***and section 51.3 of this act.***

11. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. (Deleted by amendment.)

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. Sections 62 to 86, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 63. As used in sections 62 to 86, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 64 to 78, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 64. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 65. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 66. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 79 of this act.

Sec. 67. "Commission" means the Public Utilities Commission of Nevada.

Sec. 68. ~~["Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.]~~ **(Deleted by amendment.)**

Sec. 69. "Institution of higher education" means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 70. "Participant" means a person who has been selected by the ~~[Committee]~~ **Task Force** pursuant to section 83 of this act to participate in the Wind Demonstration Program.

Sec. 71. "Person" includes, without limitation, a governmental entity.

Sec. 72. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 73. "Public property" means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 74. "School property" means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 75. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 75.5. **"Task Force" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.**

Sec. 76. "Utility" means a public utility that supplies electricity in this State.

Sec. 77. "Wind Demonstration Program" or "Program" means the Wind Energy Systems Demonstration Program created by section 79 of this act.

Sec. 78. "Wind energy system" means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 79. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 80 of this act;

(b) Submit an application to a utility and be selected by the ~~[Committee]~~ **Task Force** for inclusion in the Program pursuant to sections 82 and 83 of this act;

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 80. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 81. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 82 of this act.

2. A utility may recover its reasonable and prudent costs, including, without limitation, **customer** incentives **,** that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 82. 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the ~~[Committee]~~ **Task Force** the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The ~~[Committee]~~ **Task Force** shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 83 of this act, the ~~[Committee]~~ **Task Force** may approve, from among the applications recommended by each utility, wind energy systems totaling:

(a) For the program year beginning July 1, 2008:

(1) 500 kilowatts of capacity for school property;

(2) 500 kilowatts of capacity for other public property;

(3) 700 kilowatts of capacity for private residential property and small business property; and

(4) 700 kilowatts of capacity for agricultural property.

(b) For the program year beginning July 1, 2009:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 83. 1. Based on the applications submitted by each utility for a program year, the ~~[Committee]~~ **Task Force** shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the ~~[Committee]~~ **Task Force** selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the ~~[Committee]~~ **Task Force** on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the ~~[Committee]~~ **Task Force** may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 84. 1. Except as otherwise provided in this section, if the ~~[Committee]~~ **Task Force** determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the ~~[Committee]~~ **Task Force** shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The ~~[Committee]~~ **Task Force** may, without notice or an opportunity for a hearing, withdraw from the Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.

(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.

Sec. 85. 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 86. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775,

inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 87. Sections 87 to 106, inclusive, of this act may be cited as the Waterpower Energy Systems Demonstration Program Act.

Sec. 88. As used in sections 87 to 106, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 89 to 98, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 89. "Applicant" means a person who is applying to participate in the Waterpower Demonstration Program.

Sec. 90. "Commission" means the Public Utilities Commission of Nevada.

Sec. 91. ~~["Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.]~~ **(Deleted by amendment.)**

Sec. 92. "Participant" means a person who has been selected by the Commission to participate in the Waterpower Demonstration Program.

Sec. 93. "Person" includes, without limitation, a public entity.

Sec. 94. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 94.5. **"Task Force" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.**

Sec. 95. "Utility" means a public utility that supplies electricity in this State.

Sec. 96. "Waterpower" has the meaning ascribed to it in subsection 3 of NRS 704.7811.

Sec. 97. "Waterpower energy system" means a facility or energy system for the generation of electricity that uses waterpower to generate electricity.

Sec. 98. "Waterpower Demonstration Program" or "Program" means the Waterpower Energy Systems Demonstration Program created by section 99 of this act.

Sec. 99. 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for agricultural uses.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 and apply to and be selected by the ~~[Committee]~~ **Task Force** for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 100. The ~~[Committee]~~ **Task Force** is responsible for the administration and delivery of the Waterpower Demonstration Program as approved by the Commission.

Sec. 101. The Commission shall adopt regulations that establish:

1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program.

2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:

(a) An advertising plan;

(b) A detailed budget;

(c) A schedule;

(d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;

(e) An inspection and verification process;

(f) Proposed training and educational activities; and

(g) Any other information required by the Commission.

Sec. 102. 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the Commission for approval an annual plan for the administration and delivery of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.

2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the Commission shall review the annual plan for compliance with the requirements set forth by regulation of the Commission.

3. On or before November 1, 2008, and on or before November 1 of each subsequent year, each utility shall submit to the ~~[Committee]~~ **Task Force** a recommendation of which applications received should be accepted into the program. The ~~[Committee]~~ **Task Force** shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of section 99 of this act.

4. The ~~[Committee]~~ **Task Force** may approve, from among the applications recommended by each utility, waterpower energy systems totaling:

(a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;

(b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and

(c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.

Sec. 103. Each utility may recover its reasonable and prudent costs, including, without limitation, **customer** incentives **,** that are associated with carrying out and administering the Waterpower Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 104. 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the

actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

Sec. 105. If the waterpower energy system used by a participant in the Waterpower Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 106. If the Commission determines that a participant did not comply with the requirements for participation in the Waterpower Demonstration Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Waterpower Demonstration Program. Notice or a hearing is not required for dropping an applicant from the Program who fails to meet any completion time frames specified for the Program.

Sec. 107. (Deleted by amendment.)

Sec. 108. Section 24 of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 24. The provisions of sections 4 to 21, inclusive, of this act expire by limitation on June 30, ~~[2010.]~~ ***2007.***

Sec. 109. (Deleted by amendment.)

Sec. 110. (Deleted by amendment.)

Sec. 111. (Deleted by amendment.)

Sec. 112. With regard to solar energy systems, it is the intent of the Legislature to substitute the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act in a continuing way for the provisions of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as last amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, except that if there is a conflict between the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act, and the provisions of the Solar Energy Systems Demonstration Program Act, the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act control.

Sec. 112.5. **The provisions of sections 51.3 and 51.7 of this act do not apply to any abatement for which an agreement was executed before July 1, 2007, between the Commission on Economic Development and the business to which the abatement was granted.**

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections **1,** 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections ~~[1]~~ **1.5** to 29, inclusive, **43.5,** 47, **51.3, 51.7,** 108, ~~[and]~~ 112 **and 112.5** of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 33, 34 ~~[,]~~ **and** 35 ~~[and 48]~~ of this act, on January 1, 2009.

(5) **For section 48 of this act, on January 1, 2010.**

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to 106, inclusive, of this act expire by limitation on June 30, 2011.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblyman Conklin:

Amendment No. 1147.

SUMMARY—Revises provisions concerning ~~[generation and consumption of energy.]~~ **economic and energy development.** (BDR 58-232)

AN ACT relating to **economic and** energy ~~[; replacing the Solar Energy Systems Demonstration Program Act with]~~ **development; enacting** the Solar Energy Systems Incentive Program **,** ~~[, which provides incentives to certain participants and utilities for energy created from various solar energy systems; providing for]~~ the Renewable Energy School Pilot Program ~~[, which encourages the development of and determines the feasibility for renewable energy systems on public school properties;]~~ **and the Wind and Waterpower Energy Systems Demonstration Program Acts;** establishing a new program for evaluating the energy consumption of residential property; revising legislative findings concerning energy conservation and energy requirements; ~~[allocating a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program for improving energy conservation and energy efficiency in residential property;]~~ **revising provisions governing the universal energy charge and the Fund for Energy Assistance and Conservation;** requiring certain electric utilities to make quarterly rate adjustments; requiring the creation of various methods and programs to remove financial disincentives that may discourage energy conservation by various public utilities that purchase natural gas for resale; ~~[making various changes relating to the definition of "net metering system"; making various changes relating to offers of net metering to customer-generators; making various changes relating to calculations of net energy measurements concerning net metering systems; changing the definition of "energy efficiency measure," as regards certain persons or entities that sell electricity to retail customers; changing the amount of electricity required to be generated, acquired or saved from solar renewable energy systems, as regards certain persons or entities that sell electricity to retail customers; making various changes relating to the definition of "utility facility" as it~~

~~relates to the construction of utility facilities and environmental conservation;]~~ requiring certain residential properties for sale to be evaluated based on energy consumption and requiring that certain evaluations be provided to purchasers of those properties; ~~[enacting the Wind Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various wind energy systems; enacting the Waterpower Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various waterpower energy systems;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections 1-29 and 112 of this bill replace the Solar Energy Systems Demonstration Program Act with a new chapter of NRS which provides for the Solar Energy Systems Incentive Program. The Solar Energy Systems Incentive Program provides incentives to certain participants and utilities for energy created from various solar energy systems.

Section 30 of this bill provides for the Renewable Energy School Pilot Program. The goal of the Program is to encourage the development of and determine the feasibility for renewable energy systems on public school properties.

Sections 62-86 of this bill enact the Wind Energy Systems Demonstration Program Act. The Wind Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Sections 87-106 of this bill enact the Waterpower Energy Systems Demonstration Program Act. The Waterpower Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various waterpower energy systems. Under this bill, the Waterpower Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Existing law provides various requirements relating to the sale of residential property. (NRS 113.100-113.150, 645.230-645.321) Sections 31 ~~[, 33-35]~~ and 50 of this bill: (1) establish a new program for evaluating the energy consumption of residential property; ~~[(2) allocate a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program of improving energy conservation and energy efficiency in residential property; and (3)]~~ **and (2)** require certain residential properties for

sale to be evaluated based on energy consumption and require that such evaluations and ratings be provided to purchasers of those properties.

Existing law contains legislative findings concerning energy conservation and energy requirements. (NRS 701.010) Sections 32 and 38 of this bill accomplish two things. First, they revise those findings in relation to public utilities. Second, they require the creation of various methods and programs which will remove financial disincentives that discourage energy conservation by various public utilities that purchase natural gas for resale.

Under existing law, certain utilities collect and remit a universal energy charge that is deposited into the Fund for Energy Assistance and Conservation to support programs of energy assistance, energy conservation, weatherization and energy efficiency for eligible households. (Chapter 702 of NRS) Sections 32.3, 32.5 and 32.7 of this bill reallocate a portion of any unspent and unencumbered money in the Fund for a program of improving energy conservation and energy efficiency in certain residential property.

Existing law allows for quarterly rate adjustments for a public utility which purchases natural gas for resale. (NRS 704.110) Sections 36, 37, 39-43 and 51 of this bill require certain electric utilities to also make such quarterly rate adjustments.

~~[Existing law provides for requirements relating to electric utilities and net metering systems. (NRS 704.766-704.775) Existing law also provides for requirements relating to the construction of utility facilities and environmental conservation as cited in the Utility Environmental Protection Act. (NRS 704.820-704.900) Sections 44-46 and 49 of this bill make various changes relating to the definition of "net metering system," offers of net metering to customer-generators, calculations relating to net energy measurements as regards net metering systems, and the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation.]~~

Existing law **creates a portfolio standard that** requires certain ~~[persons or entities that sell electricity to retail customers]~~ **providers of electric service** to generate, acquire or save various amounts of electricity through renewable energy systems or efficiency measures. (NRS 704.7801-704.7828) ~~[Sections 47 and 48]~~ **Section 47** of this bill ~~[change]~~ **changes** the definition of "energy efficiency measure" ~~[and the amount of electricity required to be generated, acquired or saved from solar renewable energy systems.]~~ **for purposes of the portfolio standard.**

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. ***The provisions of sections 2 to 29, inclusive, of this act apply to the Solar Energy Systems Incentive Program.***

Sec. 3. ***As used in sections 2 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 19, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Applicant" means a person who is applying to participate in the Solar Program.***

Sec. 5. ***"Category" means one of the categories of participation in the Solar Program as set forth in section 23 of this act.***

Sec. 6. ***"Commission" means the Public Utilities Commission of Nevada.***

Sec. 7. ***"Institution of higher education" means:***

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 8. ***"Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.***

Sec. 9. ***"Participant" means a person who has been selected by the Commission to participate in the Solar Program.***

Sec. 10. ***"Person" includes, without limitation, a public entity.***

Sec. 11. ***"Program year" means the period of July 1 to June 30 of the following year.***

Sec. 12. ***1. "Public and other property" means any real property, building or facilities which are owned, leased or occupied by:***

(a) A public entity;

(b) A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended; or

(c) A corporation for public benefit as defined in NRS 82.021.

2. The term includes, without limitation, any real property, building or facilities which are owned, leased or occupied by:

(a) A church; or

(b) A benevolent, fraternal or charitable lodge, society or association.

3. The term does not include school property.

Sec. 13. ***"Public entity" means a department, agency or instrumentality of the State or any of its political subdivisions.***

Sec. 14. ***"School property" means any real property, building or facilities which are owned, leased or occupied by:***

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 15. ***"Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.***

Sec. 16. ***"Solar energy system" means a facility or energy system that uses photovoltaic cells and solar energy to generate electricity.***

Sec. 17. ***"Solar Program" means the Solar Energy Systems Incentive Program created by section 23 of this act.***

Sec. 18. ***"Task Force" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.***

Sec. 19. ***"Utility" means a public utility that supplies electricity in this State.***

Sec. 20. ***The Commission shall adopt regulations necessary to carry out the provisions of this chapter, including, without limitation, regulations that establish:***

1. The type of incentives available to participants in the Solar Program and the level or amount of those incentives;

2. The requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

Sec. 21. ***In consultation with the Task Force, the Commission shall adopt regulations that establish:***

1. The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property; and

2. The form and content of the master application which a utility must submit to the Commission pursuant to section 24 of this act.

Sec. 22. ***1. Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area for a program year.***

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 23. ***1. The Solar Energy Systems Incentive Program is hereby created.***

2. The Solar Program must have three categories as follows:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 21 of this act;

(b) Submit an application to a utility and be selected by the Commission for inclusion in the Solar Program pursuant to sections 24 and 25 of this act;

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 24. ***1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the category of school property or public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.***

2. Each year on or before the date established by the Commission, a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program and submit to the Commission:

(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and

(b) A master application containing all the applications recommended by the utility.

3. At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to section 25 of this act.

Sec. 25. ***1. Except as otherwise provided in subsection 2, the Commission may approve, for a program year, solar energy systems:***

(a) Totaling 1,000 kilowatts of capacity for school property;

(b) Totaling 760 kilowatts of capacity for public and other property; and

(c) Totaling 1,000 kilowatts of capacity for private residential property and small business property.

2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories,

➥ but in no case may the sum of the allocated total capacities of all the categories be greater than 2,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.

3. After reviewing the master application submitted by a utility pursuant to section 24 of this act, to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the Commission shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program if any capacity within a category becomes available.

4. Not later than 30 days after the date on which the Commission selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Commission on behalf of the applicant shall provide written notice of the selection to the applicant.

5. After the Commission selects an applicant to be on the list of participants, the utility which submitted the application to the Commission on behalf of the applicant may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection 3 of section 24 of this act, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.

Sec. 26. ***1. Except as otherwise provided in this section, if the Commission determines that a participant has not complied with the requirements for participation in the Solar Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Solar Program.***

2. The Commission may, without notice or an opportunity for a hearing, withdraw from the Solar Program:

(a) A participant in the category of private residential property and small business property, if the participant does not complete the installation of a solar energy system within 12 months after the date the participant receives written notice of his selection to participate in the Solar Program.

(b) A participant in the category of school property or public and other property, if the participant does not complete the installation of a solar energy system within 30 months after the date the participant receives written notice of his selection to participate in the Solar Program.

3. A participant who is withdrawn from the Solar Program pursuant to subsection 2 forfeits any incentives.

Sec. 27. ***In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program.***

Sec. 28. ***If a solar energy system used by a participant in the Solar Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.***

Sec. 29. ***1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821.***

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

Sec. 30. ***1. The Renewable Energy School Pilot Program is hereby created. The goal of the Program is to encourage the development of and determine the feasibility for the integration of renewable energy systems on school properties.***

2. The Commission shall adopt regulations for the Program. Such regulations shall include, but not be limited to:

(a) A time frame for implementation of the Program;

(b) The allowed renewable energy systems and combinations of such renewable energy systems on school property;

(c) The amount of capacity that may be installed at each school property that participates in the Program;

(d) A process by which a school district may apply for participation in the Program;

(e) Requirements for participation by a school district;

(f) The type of transactions allowed between a renewable energy system generator, a school district and a utility;

(g) Incentives which may be provided to a school district or school property to encourage participation; and

(h) Such other parameters as determined by the Commission and are consistent with the development of renewable energy systems at school properties.

3. The Program shall be limited to 10 school properties. Not more than 6 school properties from any one school district may participate in the Program.

4. The Commission shall adopt the regulations necessary to implement the Program not later than March 1, 2008.

5. The Commission shall prepare a report detailing the results of the Program and shall submit the report to the Legislature by December 1, 2008.

6. As used in this section:

(a) "Commission" means the Public Utilities Commission of Nevada.

(b) "Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.

(c) "Renewable energy system" has the meaning ascribed to it in NRS 704.7815.

(d) "School district" has the meaning ascribed to it in NRS 395.0075.

(e) "School property" means any real property, building or facilities which are owned, leased or occupied by a public school as defined in NRS 385.007.

(f) "Utility" has the meaning ascribed to it in section 19 of this act.

Sec. 31. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.

2. The regulations must include, without limitation:

(a) Standards for evaluating the energy consumption of residential property; and

(b) Provisions prescribing a form to be used pursuant to section 50 of this act, including, without limitation, provisions that require a portion of the form to provide information on ~~[the program]~~ programs created

pursuant to section 32.3 of this act and other programs of improving energy conservation and energy efficiency in residential property . ~~*[created pursuant to section 33 of this act.]*~~

3. As used in this section:

(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.

Sec. 32. NRS 701.010 is hereby amended to read as follows:

701.010 1. The Legislature finds that:

(a) Energy is essential to the economy of the State and to the health, safety and welfare of the people of the State.

(b) The State has a responsibility to encourage the maintenance of a reliable and economical supply of energy at a level which is consistent with the protection of environmental quality.

(c) The State has a responsibility to encourage the utilization of a wide range of measures which reduce wasteful uses of energy resources.

(d) ***The State and the public have an interest in encouraging public utilities to promote and take actions toward energy conservation.***

(e) Planning for energy conservation and future energy requirements should include consideration of state, regional and local plans for land use, urban expansion, transportation systems, environmental protection and economic development.

~~[(e)]~~ ***(f)*** Government and private enterprise need to accelerate research and development of sources of renewable energy and to improve technology related to the research and development of existing sources of energy.

~~[(f)]~~ ***(g)*** While government and private enterprise are seeking to accelerate research and development of sources of renewable energy, they must also prepare for and respond to the advent of competition within the electrical energy industry and are, therefore, encouraged to maximize the use of indigenous energy resources to the extent competitively and economically feasible.

~~[(g)]~~ ***(h)*** Prevention of delays and interruptions in providing energy, protecting environmental values and conserving energy require expanded authority and capability within State Government.

2. It is the policy of this State to encourage participation with all levels of government and private enterprise in cooperative state, regional and national programs to assure adequate supplies of energy resources and markets for such energy resources.

3. It is the policy of this State to assign the responsibility for managing and conserving energy and its sources to agencies whose other programs are similar, to avoid duplication of effort in developing policies and programs for energy.

Sec. 32.3. **Chapter 702 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. At the beginning of a fiscal year, 30 percent of the money in the Fund which was allocated to the Division of Welfare and Supportive Services during the preceding fiscal year pursuant to NRS 702.260 and which remains unspent and unencumbered must be distributed to the Housing Division for a program of improving energy conservation and energy efficiency in residential property. The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.

2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in section 31 of this act with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.

3. To be eligible to receive assistance from the Housing Division pursuant to this section:

(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and

(b) The residential property must not meet the standards for energy consumption established pursuant to section 31 of this act.

4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.

5. In carrying out the provisions of this section, the Housing Division shall:

(a) Solicit advice from the Division of Welfare and Supportive Services and from other knowledgeable persons;

(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;

(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;

(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;

(e) Establish a process for evaluating the program conducted pursuant to this section;

(f) Develop a process for making changes to the program; and

(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services as required by NRS 702.280.

Sec. 32.5. **NRS 702.250 is hereby amended to read as follows:**

702.250 1. There is hereby created as a special revenue fund in the State Treasury the Fund for Energy Assistance and Conservation. The Division of Welfare and Supportive Services shall administer the Fund.

2. In addition to the money that must be credited to the Fund from the universal energy charge, all money received from private or public sources to carry out the purposes of this chapter must be deposited in the State Treasury for credit to the Fund.

3. The Division shall, to the extent practicable, ensure that the money in the Fund is administered in a manner which is coordinated with all other sources of money that are available for energy assistance and conservation, including, without limitation, money contributed from private sources, money obtained from the Federal Government and money obtained from any agency or instrumentality of this State or political subdivision of this State.

4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

5. After deduction of any refunds paid from the Fund pursuant to NRS 702.160, the money in the Fund must be distributed pursuant to NRS 702.260 and 702.270 ~~[.]~~ ***and section 32.3 of this act.***

Sec. 32.7. **NRS 702.280 is hereby amended to read as follows:**

702.280 1. The Division of Welfare and Supportive Services and the Housing Division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the Divisions shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:

(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;

(b) The efforts that will be undertaken to improve administrative efficiency;

(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade organizations that provide energy assistance or conservation services to low-income persons;

(d) The measures concerning program design that will be undertaken to improve program effectiveness; and

(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.

2. The Division of Welfare and Supportive Services and the Housing Division jointly shall:

(a) Conduct an annual evaluation of the programs that each Division carries out pursuant to NRS 702.260 and 702.270 ~~[.]~~ ***and section 32.3 of this act;***

(b) Solicit advice from the Commission as part of the annual evaluation; and

(c) Prepare a report concerning the annual evaluation and submit the report to the Governor, the Legislative Commission and the Interim Finance Committee.

3. The report prepared pursuant to subsection 2 must include, without limitation:

(a) A description of the objectives of each program;

(b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;

(c) The amount of money distributed from the Fund for each program and a detailed description of the use of that money for each program;

(d) An analysis of the coordination between the Divisions concerning each program; and

(e) Any changes planned for each program.

Sec. 33. ~~[Chapter 702 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. At the beginning of a fiscal year, 50 percent of the money in the Fund which was allocated to the Division of Welfare and Supportive Services during the preceding fiscal year pursuant to NRS 702.260 and which remains unspent and unencumbered must be distributed to the Housing Division for a program of improving energy conservation and energy efficiency in residential property. The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.*~~

~~*2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in section 31 of this act with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.*~~

~~*3. To be eligible to receive assistance from the Housing Division pursuant to this section:*~~

~~*(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and*~~

~~*(b) The residential property must not meet the standards for energy consumption established pursuant to section 31 of this act.*~~

~~*4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.*~~

~~*5. In carrying out the provisions of this section, the Housing Division shall:*~~

~~*(a) Solicit advice from the Division of Welfare and Supportive Services and from other knowledgeable persons;*~~

~~*(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;*~~

~~*(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;*~~

~~*(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;*~~

~~*(e) Establish a process for evaluating the program conducted pursuant to this section;*~~

~~*(f) Develop a process for making changes to the program; and*~~

~~*(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services as required by NRS 702.280.]*~~ **(Deleted by amendment.)**

Sec. 34. ~~[NRS 702.250 is hereby amended to read as follows:~~

~~702.250 1. There is hereby created as a special revenue fund in the State Treasury the Fund for Energy Assistance and Conservation. The Division of Welfare and Supportive Services shall administer the Fund.~~

~~2. In addition to the money that must be credited to the Fund from the universal energy charge, all money received from private or public sources to carry out the purposes of this chapter must be deposited in the State Treasury for credit to the Fund.~~

~~3. The Division shall, to the extent practicable, ensure that the money in the Fund is administered in a manner which is coordinated with all other sources of money that are available for energy assistance and conservation, including, without limitation, money contributed from private sources, money obtained from the Federal Government and money obtained from any agency or instrumentality of this State or political subdivision of this State.~~

~~4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.~~

~~5. After deduction of any refunds paid from the Fund pursuant to NRS 702.160, the money in the Fund must be distributed pursuant to NRS 702.260 and 702.270~~ [.] ~~*and section 33 of this act.]*~~ **(Deleted by amendment.)**

Sec. 35. ~~[NRS 702.280 is hereby amended to read as follows:~~

~~702.280 1. The Division of Welfare and Supportive Services and the Housing Division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the Divisions shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:~~

~~(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;~~

~~(b) The efforts that will be undertaken to improve administrative efficiency;~~

~~(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade organizations that provide energy assistance or conservation services to low-income persons;~~

~~(d) The measures concerning program design that will be undertaken to improve program effectiveness; and~~

~~(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.~~

~~2. The Division of Welfare and Supportive Services and the Housing Division jointly shall:~~

~~(a) Conduct an annual evaluation of the programs that each Division carries out pursuant to NRS 702.260 and 702.270 [;] *and section 33 of this act;*~~

~~(b) Solicit advice from the Commission as part of the annual evaluation; and~~

~~(c) Prepare a report concerning the annual evaluation and submit the report to the Governor, the Legislative Commission and the Interim Finance Committee.~~

~~3. The report prepared pursuant to subsection 2 must include, without limitation:~~

~~(a) A description of the objectives of each program;~~

~~(b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;~~

~~(c) The amount of money distributed from the Fund for each program and a detailed description of the use of that money for each program;~~

~~(d) An analysis of the coordination between the Divisions concerning each program; and~~

~~(e) Any changes planned for each program.]~~ **(Deleted by amendment.)**

Sec. 36. NRS 703.130 is hereby amended to read as follows:

703.130 1. The Commission shall appoint a Deputy Commissioner who shall serve in the unclassified service of the State.

2. The Commission shall appoint a Secretary who shall perform such administrative and other duties as are prescribed by the Commission. The Commission shall also appoint an Assistant Secretary.

3. The Commission may employ such other clerks, experts or engineers as may be necessary.

4. Except as otherwise provided in subsection 5, the Commission:

(a) May appoint one or more hearing officers for a period specified by the Commission to conduct proceedings or hearings that may be conducted by the Commission pursuant to NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705, 708 and 711 of NRS.

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the Commission.

5. The Commission shall not appoint a hearing officer to conduct proceedings or hearings:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) In any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an ***annual deferred energy accounting adjustment*** application **.** ~~[to clear its deferred accounts.]~~

6. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 37. NRS 703.320 is hereby amended to read as follows:

703.320 Except as otherwise provided in ~~[subsection 8]~~ ***subsections 8 and 9*** of NRS 704.110:

1. In any matter pending before the Commission, if a hearing is required by a specific statute or is otherwise required by the Commission, the Commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The Commission shall by regulation specify:

(a) The manner of giving notice in each type of proceeding; and

(b) The persons entitled to notice in each type of proceeding.

2. The Commission shall not dispense with a hearing:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) Except as otherwise provided in ***paragraph (f) of*** subsection ~~[5]~~ ***1*** of NRS 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an ~~[application to clear its deferred accounts.]~~ ***annual deferred energy accounting adjustment application pursuant to NRS 704.187.***

3. In any other matter pending before the Commission, the Commission may dispense with a hearing and act upon the matter pending unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the Commission a request that the hearing be held. If such a request for a hearing is filed, the Commission shall give at least 10 days' notice of the hearing.

4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 38. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission shall adopt regulations to establish methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation, including, without limitation:

(a) Procedures for a public utility which purchases natural gas for resale to have a mechanism established during a general rate application filed pursuant to NRS 704.110 to ensure that the costs of the public utility for providing service are recovered without regard to the difference in the quantity of natural gas actually sold by the public utility by taking into account the adjusted and annualized quantity of natural gas sold during a test year and the growth in the number of customers of the public utility;

(b) Procedures for a public utility which purchases natural gas for resale to apply to the Commission for approval of an activity relating to increasing energy efficiency or energy conservation; and

(c) Procedures for a public utility which purchases natural gas for resale to apply to the Commission for the recovery of costs associated with an activity approved by the Commission pursuant to paragraph (b).

2. The regulations adopted pursuant to subsection 1 must ensure that the methods and programs consider the recovery of costs, stabilization of revenue and any reduction of risk for the public utility which purchases natural gas for resale.

Sec. 39. NRS 704.062 is hereby amended to read as follows:

704.062 "Application to make changes in any schedule" and "application" include, without limitation:

1. A general rate application;

2. An application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale; and

3. An ***annual deferred energy accounting adjustment*** application***.*** ~~[to clear deferred accounts.]~~

Sec. 40. NRS 704.069 is hereby amended to read as follows:

704.069 1. Except as otherwise provided in ~~[subsection 8]~~ ***subsections 8 and 9*** of NRS 704.110, the Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale ~~[or an application to clear its deferred accounts ;]~~ ***, an annual deferred energy accounting adjustment application pursuant to NRS 704.187 or an annual rate adjustment application;*** and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the Commission shall, during each calendar year, conduct at least one general consumer session in the county with the largest population in this State and at least one general consumer session in the county with the second largest population in this State. At each general consumer session, the Commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the Commission shall submit the record from the general consumer session to the Legislative Commission.

Sec. 41. NRS 704.100 is hereby amended to read as follows:

704.100 ***1.*** Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

~~[1.]~~ ***(a)*** A public utility shall not make changes in any schedule, unless the public utility:

~~[(a)]~~ ***(1)*** Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

~~[(b)]~~ ***(2)*** Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of ~~[subsection 5.~~

~~2.]~~ ***paragraph (f).***

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

~~[3.]~~ ***(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 9 of NRS 704.110.***

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

~~[4.]~~ ***(e)*** A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

~~[5.]~~ ***(f)*** Except as otherwise provided in ~~[subsection 6,]~~ ***paragraph (g),*** if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed $2,500:

~~[(a)]~~ ***(1)*** The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

~~[(b)]~~ ***(2)*** The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~[6.]~~ ***(g)*** If the applicant is a public utility furnishing telephone service and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~[7.]~~ ***(h)*** In making the determination pursuant to ~~[subsection 5 or 6,]~~ ***paragraph (f) or (g),*** the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 42. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an ***annual deferred energy accounting adjustment*** application ***,*** ~~[to clear its deferred accounts,]~~ the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsections 3 and ~~[13,]~~ ***12,*** if a public utility files with the Commission an application to make changes in any schedule, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes:

(a) For a public utility that is a PAR carrier, not later than 180 days after the date on which the application is filed; and

(b) For all other public utilities, not later than 210 days after the date on which the application is filed.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall

consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. An electric utility shall file a general rate application pursuant to this subsection at least once every 24 ~~*[36]*~~ months based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application on or before October 3, 2005, ~~*[December 3, 2007,]*~~ and at least once every 24 ~~*[36]*~~ months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application on or before November 15, 2006, ~~*[December 3, 2008,]*~~ and at least once every 24 ~~*[36]*~~ months thereafter.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility which purchases natural gas for resale ~~*[or an electric utility]*~~ may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7 ***, a quarterly rate adjustment pursuant to subsection 8 or 9, any information relating to deferred accounting requirements pursuant to NRS 704.185*** or an ***annual deferred energy accounting adjustment*** application ~~[to clear its deferred accounts pursuant to subsection 9,]~~ ***pursuant to NRS 704.187,*** if the public utility is otherwise authorized ***to so file*** by those provisions ***.*** ~~[to file such an application.]~~

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility ~~[using deferred accounting pursuant to NRS 704.187;]~~ ***which is required to adjust its rates on a quarterly basis pursuant to subsection 9;*** or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's

regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. ~~[Except as otherwise provided in subsection 10 and subsection 5 of NRS 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:~~

~~(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the Commission.~~

~~(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility.~~

~~10. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 9, the Commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this State for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The Commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.~~

~~11.~~] ***An electric utility shall adjust its rates on a quarterly basis based on changes in the public utility's recorded costs of purchased fuel or purchased power in the following manner:***

(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) Each electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application.

10. If an electric utility files an ***annual deferred energy accounting adjustment*** application ~~[to clear its deferred accounts]~~ pursuant to subsection 9 ***and NRS 704.187*** while a general rate application is pending, the electric utility shall:

(a) Submit with its ***annual deferred energy accounting adjustment*** application ~~[to clear its deferred accounts]~~ information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

~~[12.]~~ ***11.*** A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

~~[13.]~~ ***12.*** A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.

~~[14.]~~ ***13.*** As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" ~~[has the meaning ascribed to it in NRS 704.187.]~~ ***means an electric utility that,***

with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

(c) "Electric utility that primarily serves less densely populated counties" ~~[has the meaning ascribed to it in NRS 704.187.]~~ ***means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.***

(d) "PAR carrier" has the meaning ascribed to it in NRS 704.68942.

Sec. 43. NRS 704.187 is hereby amended to read as follows:

704.187 1. ~~[Except as otherwise provided in section 36 of chapter 16, Statutes of Nevada 2001, beginning on March 1, 2001, an]~~ ***An*** electric utility that purchases fuel or power shall use deferred accounting by recording upon its books and records in deferred accounts all increases and decreases in costs for purchased fuel and purchased power that are prudently incurred by the electric utility.

2. An electric utility using deferred accounting shall include in its annual report to the Commission a statement showing, for the period of recovery, the allocated rate of return for each of its operating departments in this State using deferred accounting. If, during the period of recovery, the rate of return for any operating department using deferred accounting is greater than the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility, the Commission shall order the electric utility that recovered costs for purchased fuel or purchased power through its rates during the reported period to transfer to the next energy adjustment period that portion of the amount recovered by the electric utility that exceeds the authorized rate of return.

3. Except as otherwise provided in this section, an electric utility using deferred accounting shall file an annual ***deferred energy accounting adjustment*** application ~~[to clear its deferred accounts based on the following schedule:~~

~~(a) An electric utility that primarily serves less densely populated counties shall file an annual application to clear its deferred accounts on December 1, 2005, and in December]~~ ***on or before March 1, 2008, and on or before March 1*** of each year thereafter **.** ~~[on a date specified by the Commission.~~

~~(b) An electric utility that primarily serves densely populated counties shall file an annual application to clear its deferred accounts on January 17, 2006, and in January of each year thereafter on a date specified by the Commission.]~~

4. ~~[An electric utility using deferred accounting may file a semiannual application to clear its deferred accounts if the net change in revenues necessary to clear its deferred accounts for the reported period is more than 5 percent of the total revenues generated by the electric utility during that~~

~~period from its rates for purchased fuel and purchased power most recently authorized by the Commission.~~

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

(a) ~~["Application to clear its deferred accounts"]~~ ***"Annual deferred energy accounting adjustment application"*** means an application filed by an electric utility pursuant to this section and subsection 9 of NRS 704.110.

(b) "Costs for purchased fuel and purchased power" means all costs which are prudently incurred by an electric utility and which are required to purchase fuel, to purchase capacity and to purchase energy. The term does not include any costs that the Commission determines are not recoverable pursuant to subsection ~~[10]~~ ***9*** of NRS 704.110.

(c) "Electric utility" means any public utility or successor in interest that:

(1) Is in the business of providing electric service to customers;

(2) Holds a certificate of public convenience and necessity issued or transferred pursuant to this chapter; and

(3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of $250,000,000 or more in this State.

➥ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

~~[(d) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.~~

~~(e) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.]~~

Sec. 44. ~~[NRS 704.771 is hereby amended to read as follows:~~

~~704.771 1. "Net metering system" means a facility or energy system for the generation of electricity that:~~

~~[1.] (a) Uses renewable energy as its primary source of energy to generate electricity;~~

~~[2.] (b) Has a generating capacity of not more than [150 kilowatts;~~

~~3.] 1 megawatt;~~

~~(c) Is located on the customer-generator's premises;~~

~~[4.] (d) Operates in parallel with the utility's transmission and distribution facilities; and~~

[5.] *(c)* Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.]

(Deleted by amendment.)

Sec. 45. [NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than [30] *100* kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than [30] *100* kilowatts, the utility may:

(a) Require the customer-generator to install at its own cost [an]*:*

(1) An energy meter that is capable of measuring generation output and customer load [.]*; and*

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) [Charge] *Except as otherwise provided in paragraph (c), charge* the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Not charge the customer-generator any standby charge.

4. At the time of installation or upgrade of any portion of a net metering system, the utility must require or allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

~~*4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:*~~

~~*(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:*~~

~~*(1) Metering equipment;*~~

~~*(2) Net energy measurement and billing; and*~~

~~*(3) Interconnection,*~~

~~*→ based on the allowable size of the net metering system.*~~

~~*(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.*~~

~~*(c) A timeline for processing applications and contracts for net metering applicants.*~~

~~*(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.]*~~ **(Deleted by amendment.)**

Sec. 46. ~~[NRS 704.775 is hereby amended to read as follows:~~

~~704.775 1. The billing period for net metering must be a monthly period.~~

~~2.~~ [If a customer-generator's net metering system has a capacity of not ~~more than 30 kilowatts, the~~] ~~*The* net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall measure, in kilowatt hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.~~

~~(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.~~

~~(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for electricity provided to the other during the billing period.~~

~~(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.~~

~~(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:~~

~~(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;~~

~~(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or~~

~~(III) The customer-generator transfers the net metering system to another person.~~

~~(4) The *value of the* excess electricity [which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~3. If a customer-generator's net metering system has a capacity of more than 30 kilowatts, the net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall:~~

~~(1) Measure, in kilowatt hours, the amount of electricity supplied by the utility to the customer-generator during the billing period and calculate its value using the tariff that would be applicable if the customer-generator did not use a net metering system; and~~

~~(2) Measure, in kilowatt hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.~~

~~(b) If the value of electricity supplied by the utility exceeds the value of the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net value of the electricity supplied by the utility.~~

~~(c) If the value of the electricity generated by the customer-generator which is fed back to the utility exceeds the value of the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for the value of the electricity provided to the other during the billing period.~~

~~(2) The value of the excess electricity:~~

~~(I) Must not be shown as a credit on the customer-generator's bill for that billing period but must be reflected as a credit that is carried forward to offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt hours. If the credit is reflected as excess electricity and the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In~~

~~that case, the excess electricity carried forward must be apportioned evenly among the available time of use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer-generator ceases to be a customer of the utility at the premises served by the net metering system or the customer-generator transfers the net metering system to another person.~~

~~(II) Does not reduce any other fee or charge imposed by the utility.~~

~~(3) The excess electricity which is fed back to the utility]~~ ~~*must not be used to reduce any other fee or charge imposed by the utility.*~~

~~*3. If the cost of purchasing and installing a net metering system was paid for:*~~

~~*(a) In whole or in part by a utility, the electricity generated by the net metering system* shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~*(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.*~~

~~4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.]~~

(Deleted by amendment.)

Sec. 47. NRS 704.7802 is hereby amended to read as follows:

704.7802 1. "Energy efficiency measure" means any measure designed, intended or used to improve energy efficiency if:

(a) The measure is installed on or after January 1, 2005, at the service location of a retail customer of a provider of electric service in this State;

(b) The measure reduces the consumption of energy by the retail customer; and

(c) The costs of the acquisition or installation of the measure are directly reimbursed, in whole or in part, by the provider of electric service.

2. The term does not include ~~[:~~

~~(a) Any]~~ ***any*** demand response measure or load limiting measure that shifts the consumption of energy by a retail customer from one period to another period.

~~[(b) Any solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity or any fossil fuel.]~~

Sec. 48. ~~[NRS 704.7821 is hereby amended to read as follows:~~

~~704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:~~

~~(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(f) For calendar year 2015 and for each calendar year thereafter, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:~~

~~(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than [5] 6 percent of that amount must be generated or acquired from solar renewable energy systems.~~

~~(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.~~

~~(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:~~

~~(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and~~

~~(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the~~

~~utility provider may recover all just and reasonable costs associated with the contract.~~

~~3. If, for the benefit of one or more of its retail customers in this State, the provider has directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.~~

~~4. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.~~

~~5. Except as otherwise provided in subsection 6, each provider shall comply with its portfolio standard during each calendar year.~~

~~6. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.~~

~~7. The Commission shall adopt regulations that establish:~~

~~(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.~~

~~(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.~~

~~8. As used in this section:~~

~~(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.~~

~~(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.~~

~~(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.]~~ **(Deleted by amendment.)**

Sec. 49. ~~[NRS 704.860 is hereby amended to read as follows:~~

~~704.860 "Utility facility" means:~~

~~1. Electric generating plants and their associated facilities, except:~~

~~(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or~~

~~(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than~~ [150 kilowatts,] ~~*1 megawatt*, including, without limitation, a net metering system, as defined in NRS 704.771.~~

~~As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.~~

~~2. Electric transmission lines and transmission substations that:~~

~~(a) Are designed to operate at 200 kilovolts or more;~~

~~(b) Are not required by local ordinance to be placed underground; and~~

~~(c) Are constructed outside any incorporated city.~~

~~3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:~~

~~(a) Any incorporated city; and~~

~~(b) Any county whose population is 100,000 or more.~~

~~4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.~~

~~5. Sewer transmission and treatment facilities.]~~ **(Deleted by amendment.)**

Sec. 50. Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in section 31 of this act.

2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the Director of the Office

of Energy, as prescribed in regulations adopted pursuant to section 31 of this act.

3. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

(d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.

Sec. 51. NRS 228.360 is hereby amended to read as follows:

228.360 The Consumer's Advocate:

1. Shall intervene in and represent the public interest in:

(a) All proceedings conducted pursuant to NRS 704.7561 to 704.7595, inclusive; and

(b) All proceedings conducted pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an ***annual deferred energy accounting adjustment*** application **.** ~~[to clear its deferred accounts.]~~

2. May, with respect to all public utilities except railroads and cooperative utilities, and except as otherwise provided in NRS 228.380:

(a) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

(b) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the Public Utilities Commission of Nevada in the same manner and to the same extent as authorized by law for members of the Public Utilities Commission of Nevada and its staff.

(c) Except as otherwise provided in subsection 1, petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the Public Utilities Commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the Consumer's Advocate may bring before or has brought before the Public Utilities Commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The Consumer's Advocate may represent the public interest or the interests of

any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

3. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. (Deleted by amendment.)

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. Sections 62 to 86, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 63. As used in sections 62 to 86, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 64 to 78, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 64. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 65. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 66. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 79 of this act.

Sec. 67. "Commission" means the Public Utilities Commission of Nevada.

Sec. 68. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 69. "Institution of higher education" means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 70. "Participant" means a person who has been selected by the Committee pursuant to section 83 of this act to participate in the Wind Demonstration Program.

Sec. 71. "Person" includes, without limitation, a governmental entity.

Sec. 72. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 73. "Public property" means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 74. "School property" means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 75. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 76. "Utility" means a public utility that supplies electricity in this State.

Sec. 77. "Wind Demonstration Program" or "Program" means the Wind Energy Systems Demonstration Program created by section 79 of this act.

Sec. 78. "Wind energy system" means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 79. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 80 of this act;

(b) Submit an application to a utility and be selected by the Committee for inclusion in the Program pursuant to sections 82 and 83 of this act;

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 80. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 81. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 82 of this act.

2. A utility may recover its reasonable and prudent costs, including, without limitation, incentives that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 82. 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the Committee the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The Committee shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 83 of this act, the Committee may approve, from among the applications recommended by each utility, wind energy systems totaling:

(a) For the program year beginning July 1, 2008:

(1) 500 kilowatts of capacity for school property;

(2) 500 kilowatts of capacity for other public property;

(3) 700 kilowatts of capacity for private residential property and small business property; and

(4) 700 kilowatts of capacity for agricultural property.

(b) For the program year beginning July 1, 2009:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 83. 1. Based on the applications submitted by each utility for a program year, the Committee shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the Committee selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Committee on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Committee may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains

eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 84. 1. Except as otherwise provided in this section, if the Committee determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the Committee shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The Committee may, without notice or an opportunity for a hearing, withdraw from the Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.

(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.

Sec. 85. 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 86. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 87. Sections 87 to 106, inclusive, of this act may be cited as the Waterpower Energy Systems Demonstration Program Act.

Sec. 88. As used in sections 87 to 106, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 89 to 98, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 89. "Applicant" means a person who is applying to participate in the Waterpower Demonstration Program.

Sec. 90. "Commission" means the Public Utilities Commission of Nevada.

Sec. 91. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 92. ”Participant” means a person who has been selected by the Commission to participate in the Waterpower Demonstration Program.

Sec. 93. ”Person” includes, without limitation, a public entity.

Sec. 94. ”Program year” means the period of July 1 to June 30 of the following year.

Sec. 95. ”Utility” means a public utility that supplies electricity in this State.

Sec. 96. ”Waterpower” has the meaning ascribed to it in subsection 3 of NRS 704.7811.

Sec. 97. ”Waterpower energy system” means a facility or energy system for the generation of electricity that uses waterpower to generate electricity.

Sec. 98. ”Waterpower Demonstration Program” or “Program” means the Waterpower Energy Systems Demonstration Program created by section 99 of this act.

Sec. 99. 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for agricultural uses.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 and apply to and be selected by the Committee for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 100. The Committee is responsible for the administration and delivery of the Waterpower Demonstration Program as approved by the Commission.

Sec. 101. The Commission shall adopt regulations that establish:

1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program.

2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:

(a) An advertising plan;

(b) A detailed budget;

(c) A schedule;

(d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;

(e) An inspection and verification process;

(f) Proposed training and educational activities; and

(g) Any other information required by the Commission.

Sec. 102. 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the Commission for approval an annual plan for the administration and delivery

of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.

2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the Commission shall review the annual plan for compliance with the requirements set forth by regulation of the Commission.

3. On or before November 1, 2008, and on or before November 1 of each subsequent year, each utility shall submit to the Committee a recommendation of which applications received should be accepted into the program. The Committee shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of section 99 of this act.

4. The Committee may approve, from among the applications recommended by each utility, waterpower energy systems totaling:

(a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;

(b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and

(c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.

Sec. 103. Each utility may recover its reasonable and prudent costs, including, without limitation, incentives that are associated with carrying out and administering the Waterpower Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 104. 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

Sec. 105. If the waterpower energy system used by a participant in the Waterpower Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 106. If the Commission determines that a participant did not comply with the requirements for participation in the Waterpower Demonstration Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Waterpower Demonstration Program. Notice or a hearing is not required for dropping an applicant from the Program who fails to meet any completion time frames specified for the Program.

Sec. 107. (Deleted by amendment.)

Sec. 108. Section 24 of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 24. The provisions of sections 4 to 21, inclusive, of this act expire by limitation on June 30, ~~[2010.]~~ ***2007.***

Sec. 109. (Deleted by amendment.)

Sec. 110. (Deleted by amendment.)

Sec. 111. (Deleted by amendment.)

Sec. 112. With regard to solar energy systems, it is the intent of the Legislature to substitute the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act in a continuing way for the provisions of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as last amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, except that if there is a conflict between the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act, and the provisions of the Solar Energy Systems Demonstration Program Act, the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act control.

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1 to 29, inclusive, 47, 108, and 112 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, **32.3, 32.5, 32.7,** 33, 34, 35 and 48 of this act, on January 1, 2009.

(5) For section 50 of this act, on January 1, 2011.

2. Sections 62 to 106, inclusive, of this act expire by limitation on June 30, 2011.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that upon return from the printer, Senate Bill No. 437 be placed on the Chief Clerk’s desk.

Motion carried.

Senate Bill No. 466.

Bill read third time.

Roll call on Senate Bill No. 466:

YEAS—42.

NAYS—None.

Senate Bill No. 466 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 476.

Bill read third time.

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

Amendment No. 1150.

AN ACT relating to business; providing for the licensing and regulation of exchange facilitators by the Division of Financial Institutions of the Department of Business and Industry; authorizing the Division to charge and collect fees in certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Real Estate Division of the Department of Business and Industry regulates the activities of qualified intermediaries. (NRS 645.606-645.6085) This bill transfers regulatory and licensing authority concerning qualified intermediaries from the Real Estate Division to the Division of Financial Institutions of the Department of Business and Industry.

Section 42 of this bill renames the entities to be regulated and licensed as "exchange facilitators," and expands the scope of this term to include both qualified intermediaries and exchange accommodation titleholders.

Sections 3-21.5, 42, 43 and 47-50 of this bill regulate the activities of exchange facilitators and include provisions concerning: (1) applications for and renewals of a license as an exchange facilitator; (2) certain bonds and insurance policies that must be maintained by a licensee; (3) the handling of money held in accounts for clients; (4) the management of a licensee that is not a natural person; and (5) notice that must be provided to clients and to the Division in certain circumstances. Sections 21 and 21.5 set forth the fees which the Division is required to charge and collect relating to applications for and renewals of a license and how money received by the Division must be deposited.

Sections 22-38 of this bill govern disciplinary proceedings against an exchange facilitator. Section 22 authorizes the Commissioner of the Division of Financial Institutions to investigate an exchange facilitator. Section 25 authorizes the Commissioner to require a licensee to pay an administrative fine of not more than $200 per day or to suspend, revoke, deny the renewal

of or place conditions upon his license, or impose any combination of such actions in certain circumstances. Under section 38, a person who is not licensed pursuant to the provisions of this bill who acts as an exchange facilitator or holds himself out as a licensee is guilty of a **gross** misdemeanor and is further liable to the Division for a civil penalty of $200 per day for each day that the violation continues.

Section 39 of this bill authorizes the Division to issue a reciprocal license to a person who is licensed as an exchange facilitator in another state in certain circumstances. Section 39.5 of this bill authorizes the Division to issue a special license to a financial institution that maintains an office in this State in certain circumstances.

Section 40 of this bill requires the Commissioner to conduct an audit of all exchange facilitators at least every 5 years and to conduct on a random basis additional partial audits of any licensee who has a history of violations of the provisions of this bill.

Upon passage and approval of this bill, the Legislative Counsel will transfer NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act from chapter 645 of NRS to a new chapter of NRS. Upon passage and approval of this bill, the Legislative Counsel will transfer all the regulations created under NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act to the chapter of NAC that corresponds with the new chapter of NRS in which NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act are transferred.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 40, inclusive, of this act.

Sec. 3. ***As used in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 645.606 and sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Commissioner" means the Commissioner of Financial Institutions.***

Sec. 5. ***"Division" means the Division of Financial Institutions of the Department of Business and Industry.***

Sec. 6. ***"Financial institution" means any bank, savings and loan association, savings bank or trust company, including*** ~~*[an affiliate,]*~~ ***a subsidiary or holding company of these, doing business in this State that is federally insured and organized under, or supervised pursuant to, the laws of the United States or of any state.***

Sec. 7. ***"Licensee" means a person licensed as an exchange facilitator pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act.***

Sec. 8. ***Except as otherwise provided in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, do not apply to:***

1. Any bank, thrift company, credit union, trust company, savings and loan association, including ~~[an affiliate,]~~ a subsidiary or holding company of these, or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.

2. ~~[A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.~~

~~3. The services rendered by an attorney at law in the performance of his duties as an attorney at law.~~

~~4.]~~ A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.

~~[5.]~~ 3. A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.

~~[6.]~~ 4. The purchase, sale or locating of mining claims or options thereon or interests therein.

~~[7.]~~ 5. The State of Nevada or a political subdivision thereof.

Sec. 9. ***1. A license issued pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act is nontransferable.***

2. The business of a licensee must not be sold or ownership of the business transferred before the prospective buyer or owner has complied with the provisions of section 43 of this act.

Sec. 10. ***1. A licensee may establish one or more branch offices in this State.***

2. A licensee who establishes one or more branch offices in this State shall provide written notice to the Division of the establishment of any such branch office within 30 days after establishment of the branch office.

Sec. 11. ***A license issued pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act must be conspicuously displayed in the primary place of business of the licensee, and a copy of the license must be conspicuously displayed in each branch office of the licensee.***

Sec. 12. ***1. The business of a licensee, if the licensee is not a natural person, must be conducted under the direct management of an officer or employee of the licensee designated by the licensee as an exchange facilitator officer, who is licensed pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act and who is:***

(a) An attorney or certified public accountant admitted to practice in any state or territory of the United States;

(b) A certified exchange specialist certified by the Federation of Exchange Accommodators or its successor; or

(c) A person who has been actively conducting the business of an exchange facilitator or who has equivalent experience, as determined by the Division, for the 3 years immediately preceding his designation as an exchange facilitator officer.

2. A licensee shall ~~*[immediately]*~~ ***notify the Division in writing*** ~~*[of:]*~~ ***within 10 working days after:***

(a) The designation of any exchange facilitator officer, setting forth the experience and qualifications of the exchange facilitator officer and other such information as may be required by the Division; and

(b) The termination of the employment of any exchange facilitator officer.

Sec. 13. ***1. Each licensee is a fiduciary of all money, property, other considerations and instruments received by the licensee from the client.***

2. Each licensee shall invest money related to a tax-deferred exchange of property in investments which meet the reasonable standards that are applicable to persons acting as fiduciaries in this State.

Sec. 14. ***Money held in any account for a client may not be withdrawn from the account without the written approval of the licensee and the client.***

Sec. 15. ***1. Except as otherwise provided in subsection 2, a licensee shall maintain a policy of insurance covering liability for errors and omissions in an amount not less than $250,000 executed by an insurer authorized to do business in this State and approved by the Division.***

2. In lieu of such a policy of insurance, a licensee may deposit with the Division under such terms and conditions as the Division may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Division.

3. A licensee shall provide proof of the coverage required pursuant to this section, including, without limitation, the name and address of the insurer, to a client.

4. The provisions of subsections 1 and 2 do not prohibit the licensee from maintaining a policy of insurance, deposits or other forms of security in excess of the amounts required by subsections 1 and 2.

5. Any person claiming against a policy of insurance or deposit required by this section may bring an action in a court of competent jurisdiction on the policy of insurance or deposit for damages to the extent covered by the policy. A person who brings an action on a policy or deposit shall notify the Division in writing upon filing the action.

6. Upon receiving a request from a client of an exchange facilitator, the Division shall notify the client:

(a) That a policy of insurance is in effect or that a deposit has been made, and the amount of either; and

(b) If there is an action against the policy of insurance, of the title, court and case number of the action and the amount sought by the plaintiff.

7. If an insurer, or in the case of a deposit, the Division, wishes to make payment without awaiting action by a court, the amount of the policy or deposit must be reduced to the extent of any payment made by the insurer or the Division in good faith under the policy or deposit. Any payment must be based on written claims received by the insurer or the Division before any action is taken by a court.

8. Claims against a policy of insurance or deposit have equal priority, and if the policy or deposit is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the exchange facilitator for the unpaid balance.

Sec. 16. ***A licensee shall provide written notice to the Division at least 30 days before the cancellation or withdrawal of any bond, policy of insurance or security required pursuant to NRS 645.608 or section 15 of this act. The Division shall suspend the license of a licensee upon notice that the licensee has cancelled or withdrawn any bond, policy of insurance or security required pursuant to NRS 645.608 or section 15 of this act.***

Sec. 17. (Deleted by amendment.)

Sec. 18. ***All exchange funds must be kept separate from money belonging to the licensee and must be deposited in a financial institution that is federally insured or insured by a private insurer approved pursuant to NRS 678.755 unless another financial institution has been designated in writing in the exchange agreement. The money when deposited must be designated as "trust funds" or "escrow accounts" or under some other appropriate name indicating that the money is not the money of the licensee.***

Sec. 19. ***1. Exchange funds are not subject to execution or attachment on any claim against the licensee.***

2. A licensee shall not knowingly keep or cause to be kept any money in any bank, credit union or other financial institution under any name designating the money as belonging to the clients of any licensee, unless the money belongs to the client and was actually entrusted to the licensee by the client.

Sec. 20. ***If a licensee fails to apply for a renewal of his license before the date of the expiration thereof, no license may be issued to him except upon another application for an original license, except that within 1 year of such expiration a renewal may be issued upon payment of a fee one and one-half times the amount otherwise required for renewal.***

Sec. 21. ***1. The Commissioner shall charge and collect the following fees:***

(a) For the filing and investigation of an application for a license, a nonrefundable fee of not more than $1,000 and any additional expenses incurred in the process of investigation;

(b) For the issuance of a license, at least $200;

(c) For the annual renewal of a license, at least $200;

(d) For the issuance of a license for each branch office of a licensee, a nonrefundable fee of at least $200;

(e) For the annual renewal of a license for each branch office of a licensee, at least $250;

(f) For the issuance of a reciprocal license, at least $150;

(g) For the annual renewal of a reciprocal license, at least $150; and

(h) For the reissuance of a license because of a change in the business address of the licensee, at least $200.

2. All money received by the Commissioner pursuant to paragraph (a) of subsection 1 must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

3. The Commissioner shall adopt regulations establishing the amount of fees required pursuant to this section.

Sec. 21.5. ***Except as otherwise provided in NRS 645.6085 and section 21 of this act, all money received by the Commissioner pursuant to this chapter must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.***

Sec. 22. ***The Commissioner or the Division may investigate the actions of any exchange facilitator or any person who acts in any such capacity within this State.***

Sec. 23. ***The Division shall maintain a public docket or other record in which it shall record from time to time as made:***

1. The rulings or decisions upon all complaints filed with the Division concerning an exchange facilitator.

2. All investigations instituted by the Commissioner or the Division in the first instance, upon or in connection with which any hearing has been held, or in which the licensee charged has made no defense.

3. Denials of applications made to the Division for licensing.

Sec. 24. ***1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.***

2. A complaint or other document filed with the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.

Sec. 25. ***1. The Commissioner may require a licensee to pay an administrative fine of not more than $200 per day for each violation he commits or may suspend, revoke, deny the renewal of or place conditions upon his license, or impose any combination of those actions, at any time if:***

(a) The licensee, by false or fraudulent representation, obtained a license.

(b) The licensee, whether or not acting as such, is found guilty of:

(1) Making any material misrepresentation.

(2) Making any false promises of a character likely to influence, persuade or induce.

(c) The licensee has failed, within a reasonable time, to account for or to remit any money which comes into his possession or under his control and which belongs to others.

(d) The licensee has engaged in any fraudulent act.

(e) The licensee or an owner, officer, director or employee of a licensee, is found guilty of any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of money, robbery or theft.

(f) The licensee has failed to fulfill a contractual duty to deliver property or money, unless the failure to deliver such property or money is beyond the control of the licensee.

(g) A receiver or conservator is appointed to take control of the assets of a licensee.

(h) The licensee is dissolved.

(i) The licensee is bankrupt.

(j) The licensee fails to maintain, for review and audit by the Division, each agreement governed by the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act and entered into by the licensee.

(k) The licensee violates any provision of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or any regulations adopted pursuant thereto.

2. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

3. In addition to any action set forth in subsection 1, the Division may, if it determines that an applicant for a license or a licensee has committed any of the acts set forth in subsection 1, after notice and a hearing required by law, require the applicant or licensee to pay the costs incurred by the Division to conduct any related investigation or hearing.

Sec. 26. ***1. The Division shall not suspend the license of a licensee pursuant to section 25 of this act for more than 2 years.***

2. After the revocation of any license by the Commissioner as provided in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, no new license may be issued to the same licensee within 2 years

after the date of the revocation and then only provided that the licensee satisfies all the requirements for an original license.

Sec. 27. (Deleted by amendment.)

Sec. 28. ***The expiration or revocation of a license by operation of law or by order or decision of the Division or a court of competent jurisdiction, or the voluntary surrender of a license does not:***

1. Prohibit the Commissioner or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the exchange facilitator as authorized pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any penalty authorized pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or the regulations adopted pursuant thereto against the exchange facilitator.

Sec. 29. ***1. The procedure set forth in this section and section 30 of this act must be followed before the Division revokes, suspends or denies the renewal of any license issued pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act.***

2. Upon the initiation of a complaint by the Division, the matter must be set for a hearing by the Commissioner, who shall schedule a hearing before the Commissioner, and the licensee is entitled to be heard thereon in person or by counsel.

3. The Commissioner shall hold the hearing within 90 days after the filing of a complaint by the Division. The time of the hearing may be continued at the discretion of the Commissioner or upon the written request of the licensee or of the Division for good cause shown.

4. The licensee must be given at least 30 days' notice in writing by the Division of the date, time and place of the hearing together with a copy of the complaint and copies of all communications, reports, affidavits or depositions in possession of the Division relevant to the complaint. The Division may present evidence obtained after the notice only if the Division shows that the evidence was not available after diligent investigation before the time notice was given to the licensee and that the evidence was given or communicated to the licensee immediately after it was obtained.

5. Notice is complete upon delivery personally to the licensee or by mailing by certified mail to the last known address of the licensee.

Sec. 30. ***1. The licensee shall file an answer to the charges with the Commissioner not later than 30 days after service of the notice and other documents described in subsection 4 of section 29 of this act. The answer must contain an admission or denial of the allegations contained in the complaint and any defenses upon which the licensee will rely. If no answer is filed within the time limit described in this subsection, the Division may, after notice to the licensee served in the manner authorized in subsection 5 of section 29 of this act, move for the entry of a default against the licensee.***

2. The answer may be served by delivery to the Division, or by mailing the answer by certified mail to the principal office of the Division.

3. No proceeding to suspend, revoke or deny the renewal of any license may be maintained unless it is commenced by the giving of notice to the licensee within 3 years of the time of the act charged, whether of commission or omission, except:

(a) If the charges are based upon a misrepresentation, or failure to disclose, the period does not commence until the discovery of facts which do or should lead to the discovery of the misrepresentation or failure to disclose; and

(b) Whenever any action or proceeding is instituted to which the Division or the licensee is a party and which involves the conduct of the licensee in the transaction with which the charges are related, the running of the 3-year period with respect to the institution of a proceeding pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act to suspend, revoke or deny the renewal of the license is suspended during the pendency of the action or proceeding.

Sec. 31. ***The hearing on the charges must be held at such time and place as the Commissioner prescribes. At the hearing, a stenographic transcript of the proceedings must be made if requested or required for judicial review. Any party to the proceedings desiring a transcript must be furnished with a copy upon payment to the Division of the reasonable cost of transcription.***

Sec. 32. ***1. The Commissioner shall have the power to administer oaths, certify to all official acts, and issue subpoenas for attendance of witnesses and the production of books and papers.***

2. In any hearing or investigation in any part of the State, the process issued by the Commissioner shall extend to all parts of the State and may be served by any person authorized to serve process of courts of record. The person serving any such process shall receive such compensation as may be allowed by the Commissioner, not to exceed the fees prescribed by law for similar service, and such fees must be paid in the same manner as provided in section 33 of this act for the payment of the fees of witnesses.

Sec. 33. ***1. Each witness who appears by order of the Commissioner is entitled to receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount must be paid by the party at whose request the witness is subpoenaed.***

2. When any witness not otherwise required to attend is subpoenaed by the Commissioner, his fees and mileage must be paid by the Division.

Sec. 34. ***1. The district court in and for the county in which any hearing may be held shall have the power to compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Commissioner.***

2. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Commissioner may report to the

district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Commissioner in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

➥ and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Commissioner.

3. The court, upon petition of the Commissioner, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Commissioner. A certified copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued by the Commissioner, the court shall thereupon enter an order that the witness appear before the Commissioner at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 35. ***1. The Commissioner may, in any hearing before him, cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by the Nevada Rules of Civil Procedure for like depositions in civil actions in the district courts of this State, and to that end may compel the attendance of witnesses and the production of books and papers.***

2. The clerk of the district court in and for the county in which any hearing may be held by the Commissioner shall, upon the application of the Commissioner, issue commissions to other states for the taking of evidence therein for use in any proceedings before the Commissioner.

3. Any party to any hearing before the Commissioner shall have the right to the attendance of witnesses in his behalf at such hearing or upon deposition as set forth in this section upon making request therefor to the Commissioner and designating the name and address of the person or persons sought to be subpoenaed.

Sec. 36. ***1. The Commissioner shall render an informal decision on any complaint within 15 days after the final hearing thereon and shall give notice in writing of the ruling or decision to the applicant or licensee affected thereby within 60 days after the final hearing thereon by certified mail to the last known address of the person to whom the notice is sent.***

2. If the ruling is adverse to the licensee, the Commissioner shall also state in the notice the date upon which the ruling or decision becomes effective, which date must not be less than 30 days after the date of the notice.

3. The decision of the Commissioner may not be stayed by any appeal in accordance with the provisions of section 37 of this act, unless the district court so orders upon motion of the licensee, notice to the Division of the motion and opportunity for the Division to be heard.

4. An appeal from a decision of the district court affirming the revocation or suspension of a license does not stay the order of the Commissioner unless the district or appellate court, in its discretion and upon petition of the licensee, after notice and hearing orders such stay, and upon the filing of a bond for costs in the amount of $1,000.

Sec. 37. ***1. A ruling or decision of the Commissioner in any disciplinary action is final when in favor of the licensee.***

2. If a ruling or decision is against the licensee, the licensee is entitled to judicial review of the ruling or decision in the manner provided by chapter 233B of NRS.

Sec. 38. ***1. Any person who is not licensed pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act who acts as an exchange facilitator in this State or holds himself out as a licensee and any licensee who commits an act set forth in subsection 1 of section 25 of this act is:***

(a) Guilty of a gross misdemeanor.

(b) Liable to the Division for a civil penalty of $200 per day for each day that the violation continues.

2. The Division may file an action for injunctive relief in the appropriate district court in this State to prevent the occurrence or continuance of that act.

Sec. 39. ***1. A person who is licensed as an exchange facilitator in another state or territory of the United States and is not otherwise required to be licensed pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act may submit an application for a reciprocal license as an exchange facilitator pursuant to the provisions of this section. The Division shall issue a reciprocal license to the applicant if:***

(a) The applicant is licensed in a jurisdiction that grants reciprocal licensing to a person licensed pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act;

(b) The Division determines that the laws and regulations governing exchange facilitators of the jurisdiction in which the applicant is licensed are at least equivalent to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act;

(c) The applicant provides proof satisfactory to the Division that the applicant has complied with the requirements of NRS 645.608 and section 15 of this act;

(d) The applicant pays the fee required pursuant to section 21 of this act;

(e) The applicant designates the Division as its representative to receive service of process for matters arising in this State; and

(f) The applicant does not maintain an office in this State in connection with the conduct of the business of an exchange facilitator.

2. The Division shall:

(a) Examine the laws of each state to identify the jurisdictions that meet the requirements for recognition of a reciprocal license pursuant to this section; and

(b) Publish annually a list of the jurisdictions that meet the requirements of this section.

3. A license issued pursuant to this section must be renewed annually on or before July 1, by providing the information required by the Division for that purpose and paying the renewal fee prescribed by section 21 of this act.

Sec. 39.5. ***1. A financial institution may obtain a special license pursuant to this section.***

2. The Division shall issue a special license to a financial institution if the financial institution:

(a) Maintains an office in this State;

(b) Pays the fee required pursuant to section 21 of this act for the issuance of a license; and

(c) Complies with any other requirements set forth by regulations adopted by the Division.

3. A financial institution which obtains a special license pursuant to this section is exempt from the requirements of subsections 2 to 7, inclusive, of section 43 of this act except as otherwise required by regulations adopted by the Division.

4. A license issued pursuant to this section must be renewed annually on or before July 1, by providing the information required by the Division for that purpose and paying the renewal fee prescribed by section 21 of this act.

Sec. 40. ***1. The Commissioner shall cause to be conducted at least every 5 years an audit of all licensees. The Commissioner shall cause to be conducted each year on a random basis additional partial audits of any licensee who has a history of violations of the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, or the regulations adopted pursuant thereto, as determined by the Commissioner.***

2. The Commissioner shall require the use of standard auditing procedures and shall establish a manual to describe the standard auditing procedures. The manual must include, without limitation:

(a) Specific audit objectives;

(b) Standards for documentation;

(c) Policies for supervisory review;

(d) Policies for the training of auditors;

(e) The format for the audit report; and

(f) Procedures for the presentation, distribution and retention of the audit report.

3. On or before March 1 of each year, the Commissioner shall make a report of each audit to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session.

Sec. 41. NRS 645.240 is hereby amended to read as follows:

645.240 ~~[1.]~~ The provisions of this chapter do not apply to, and the terms "real estate broker" and "real estate salesman" do not include, any:

~~[(a)]~~ ***1.*** Owner or lessor of property, or any regular employee of such a person, who performs any of the acts mentioned in NRS 645.030, 645.040, 645.230 and 645.260, with respect to the property in the regular course of or as an incident to the management of or investment in the property. For the purposes of this paragraph, "management" means activities which tend to preserve or increase the income from the property by preserving the physical desirability of the property or maintaining high standards of service to tenants. The term does not include sales activities.

~~[(b)]~~ ***2.*** Employee of a real estate broker while engaged in the collection of rent for or on behalf of the broker.

~~[(c)]~~ ***3.*** Person while performing the duties of a property manager for a property, if the person maintains an office on the property and does not engage in property management with regard to any other property.

~~[(d)]~~ ***4.*** Person while performing the duties of a property manager for a common-interest community governed by the provisions of chapter 116 of NRS, a condominium project governed by the provisions of chapter 117 of NRS, a time share governed by the provisions of chapter 119A of NRS, or a planned unit development governed by the provisions of chapter 278A of NRS, if the person is a member in good standing of, and, if applicable, holds a current certificate, registration or other similar form of recognition from, a nationally recognized organization or association for persons managing such properties that has been approved by the Real Estate Division by regulation.

~~[(e)]~~ ***5.*** Person while performing the duties of a property manager for property used for residential housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government.

~~[2. Except as otherwise provided in NRS 645.606 to 645.6085, inclusive, the provisions of this chapter do not apply to:~~

~~(a) Any bank, thrift company, credit union, trust company, savings and loan association or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as~~

~~a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.~~

~~(b) A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.~~

~~(c) The services rendered by an attorney at law in the performance of his duties as an attorney at law.~~

~~(d) A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.~~

~~(e) A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.~~

~~(f) The purchase, sale or locating of mining claims or options thereon or interests therein.~~

~~(g) The State of Nevada or a political subdivision thereof.]~~

Sec. 42. NRS 645.606 is hereby amended to read as follows:

645.606 1. ~~[As used in NRS 645.606 to 645.6085, inclusive, "qualified intermediary" has the meaning ascribed to it]~~ ***"Exchange facilitator" means a person who, for compensation of any kind, acts as:***

(a) A qualified intermediary as defined in 26 C.F.R. § ~~[1.1031(k)-1(g).]~~ ***1.1031(k)-1(g)(4) for a client whose relinquished property is located in this State; or***

(b) An exchange accommodation titleholder, as that term is defined in Rev. Proc. 2000-37, who holds title to property located in this State.

2. The term includes any person who ~~[advertises]~~ ***:***

(a) Maintains an office in this State for the purpose of soliciting business as an exchange facilitator; or

(b) Advertises or holds himself out as prepared to facilitate a tax-deferred exchange of property in this State by acting as the custodian of money or other property.

3. The term does not include ~~[a bank, credit union or other depository institution, an escrow company, a title insurer, an agent licensed pursuant to chapter 692A of NRS or its subsidiaries or employees.]~~ ***:***

(a) A taxpayer or disqualified person, as those terms are defined in 26 C.F.R. § 1.1031(k)-1(k), who is seeking to qualify for nonrecognition pursuant to 26 U.S.C. § 1031;

(b) A financial institution when acting solely as a depository for funds used in a tax-deferred exchange of property;

(c) A person who advertises for and teaches seminars or classes, or otherwise gives presentations to attorneys, accountants, real estate professionals, tax professionals or other professionals with the primary purpose of teaching such professionals about tax-deferred exchanges or training such professionals to act as exchange facilitators; or

(d) A qualified intermediary, as defined in 26 C.F.R. § 1.1031(k)-1(g)(4), who holds exchange funds received from the disposition of relinquished property located outside this State.

Sec. 43. NRS 645.6065 is hereby amended to read as follows:

645.6065 1. Except as otherwise provided in NRS 645.607, a person shall not act as ~~[a qualified intermediary]~~ ***an exchange facilitator*** unless he is ~~[registered]~~ ***licensed*** as such with the Division. The Division may adopt such regulations as it deems necessary to carry out the provisions of NRS 645.606 to 645.6085, inclusive ~~[.]~~ ***, and sections 3 to 40, inclusive, of this act, including, without limitation, regulations prescribing amounts required for liquidity purposes.***

2. To apply for ~~[registration,]~~ ***a license as an exchange facilitator,*** a person must pay the Division ~~[a fee of $100 and a fee to pay the costs of an investigation of the person's background.]~~ ***the fee prescribed by section 21 of this act.***

3. In addition to the requirements set forth in subsection 2, the person must submit to the Division:

(a) The following information on a form provided by the Division:

(1) The applicant's name, ***business*** address and telephone number;

(2) The name under which the applicant will hold the money or other property of a client;

(3) The names, residence and business addresses of all ***shareholders or members who hold 10 percent or more of the voting stock of the applicant's business and all*** persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each; and

(4) The length of time the applicant has been engaged in the business of acting as such an ~~[intermediary; and]~~ ***exchange facilitator;***

(5) A summary description of the business of the applicant;

(6) A list of any similar licenses obtained and maintained in other states or other jurisdiction and information regarding revocation of any such license;

(7) The tax identification number of the applicant; and

(8) A current certificate of good standing for the applicant from the state or other jurisdiction in which the applicant's business is formed; and

(b) All information required to complete the application.

4. Each applicant must, as part of his application and at his own expense:

(a) Arrange to have ~~[a complete set of his fingerprints]~~ taken ***,*** by a law enforcement agency or other authorized entity acceptable to the Division ~~[;]~~ ***, a complete set of the applicant's fingerprints and the fingerprints of each person or officer who will be conducting the business of the applicant in this State and who has authority to transfer exchange money held by the applicant;*** and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the ~~[applicant's]~~ fingerprints ***described in paragraph (a)*** to
the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the ~~[applicant's]~~ background ***of each person whose fingerprints were taken*** and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints ~~[of the applicant]~~ ***described in paragraph (a)*** were taken and directly forwarded electronically or by another means to the Central Repository and that ~~[the applicant]~~ ***each person whose fingerprints were taken*** has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the ~~[applicant's]~~ background ***of each such person*** and to such other law enforcement agencies as the Division deems necessary.

5. The Division may:

(a) Unless the ~~[applicant's]~~ fingerprints ***described in paragraph (a) of subsection 4*** are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the ~~[applicant's]~~ background ***of each person whose fingerprints were taken*** as the Division deems necessary.

6. ~~[Registration]~~ ***The Division shall approve an application submitted pursuant to this section within 45 days after the submission of the completed application, any additional information required by the Division and proof satisfactory to the Division that the applicant has complied with the provisions of NRS 645.608. Upon approval of an application, the Division shall issue a license to the applicant.***

7. A license issued pursuant to ~~[this section]~~ ***NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act*** must be renewed ~~[each year]~~ ***annually*** on or before ~~[the date of the original registration]~~ ***July 1,*** by providing the information required by the Division for that purpose and paying a renewal fee ~~[of $75.]~~ ***prescribed by section 21 of this act.***

Sec. 44. NRS 645.6068 is hereby amended to read as follows:

645.6068 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of his ~~[registration as a qualified intermediary]~~ ***license as an exchange facilitator*** shall include the social security number of the applicant in the application submitted to the Division.

(b) A natural person who applies for the issuance or renewal of his ~~[registration as a qualified intermediary]~~ ***license as an exchange facilitator***

shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the ~~[registration;]~~ ***license;*** or

(b) A separate form prescribed by the Division.

3. An applicant may not be ~~[registered as a qualified intermediary]~~ ***licensed as an exchange facilitator*** by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 45. NRS 645.6068 is hereby amended to read as follows:

645.6068 1. In addition to any other requirements set forth in this chapter, a natural person who applies for the issuance or renewal of his ~~[registration as a qualified intermediary]~~ ***license as an exchange facilitator*** shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the ~~[registration;]~~ ***license;*** or

(b) A separate form prescribed by the Division.

3. An applicant may not be ~~[registered as a qualified intermediary]~~ ***licensed as an exchange facilitator*** by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public

agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 46. NRS 645.6069 is hereby amended to read as follows:

645.6069 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is ~~[registered with the Division as a qualified intermediary,]~~ ***licensed as an exchange facilitator,*** the Division shall deem the ~~[registration]~~ ***license*** issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who is ~~[registered as a qualified intermediary]~~ ***licensed as an exchange facilitator*** stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate the ~~[registration of a qualified intermediary]~~ ***license of an exchange facilitator*** that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose ~~[registration]~~ ***license*** was suspended stating that the person whose ~~[registration]~~ ***license*** was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 47. NRS 645.607 is hereby amended to read as follows:

645.607 ***1.*** If the ~~[intermediary]~~ ***exchange facilitator*** is a corporation qualified to do business in this State, every officer ***,*** ~~[and]~~ director ***and exchange facilitator officer designated pursuant to section 12 of this act*** of the corporation who does business in this State must be ~~[registered.]~~ ***licensed.*** No other employee is required to ~~[register.]~~ ***be licensed.***

2. If the exchange facilitator is not a natural person or a publicly traded company, each shareholder, member or other owner who owns 10 percent or more of the voting stock, shares or other ownership interest of the exchange facilitator must be licensed.

Sec. 48. NRS 645.6075 is hereby amended to read as follows:

645.6075 A ~~[qualified intermediary shall inform]~~ ***licensee shall:***

1. Maintain a principal place of business in this State or maintain a registered agent in this State;

2. ~~*[Immediately inform]*~~ ***Inform*** the Division in writing ~~[of]~~ ***within 10 working days after*** any change in ~~[his address or]~~ ***the address or*** telephone

number [.] ***of his principal place of business or his registered agent, and provide any other information required by the Division; and***

3. ***[Immediately inform]*** ***Inform all clients*** ***[if:]*** ***within 10 working days after:***

(a) ***[There is a]*** ***A change in any of the officers, directors, employees or owners of the licensee who are required to obtain a license pursuant to section 12 or 47 of this act; or***

(b) The licensee or any person described in paragraph (a) acquires a new license, has his license suspended or revoked or otherwise relinquishes, loses or has any other change in the status of his license.

Sec. 49. NRS 645.608 is hereby amended to read as follows:

645.608 1. Except as otherwise provided in subsection 2, [a qualified intermediary] ***an exchange facilitator*** shall [post with the Division a bond] ***maintain one or more fidelity bonds in a total amount of not less than $1,000,000*** executed by [the intermediary as principal, and by a corporation qualified pursuant to the laws of this State as a surety. The bond must be payable to the State of Nevada and conditioned upon the payment of all money due to the State and the clients of the intermediary. The Division shall, by regulation, establish the minimum amount required for the bond.] ***an insurer authorized to do business in this State and approved by the Division.***

2. In lieu of such a bond [an intermediary] ***, a licensee*** may deposit with the Division under such terms and conditions as the Division may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Division.

3. ***A licensee shall provide proof of the bond required pursuant to this section, including, without limitation, the name and address of the insurer, to a client.***

4. Any person claiming against a bond ***or deposit required by this section*** may bring an action in a court of competent jurisdiction on the bond ***or deposit*** for damages to the extent covered by the bond [.] ***or deposit.*** A person who brings an action on a bond ***or deposit*** shall notify the Division in writing upon filing the action.

[4.] ***5.*** Upon receiving a request from a person for whose benefit a bond ***or deposit*** is required, the Division shall notify him:

(a) That a bond is in effect ***or that a deposit has been made,*** and the amount of [the bond;] ***either;*** and

(b) If there is an action against the bond, of the title, court and case number of the action and the amount sought by the plaintiff.

[5.] ***6.*** If [a surety] ***an insurer or, in the case of a deposit, the Division*** wishes to make ***a*** payment without awaiting action by a court, the amount of the bond ***or deposit*** must be reduced to the extent of any payment made by

the ~~[surety]~~ ***insurer or the Division*** in good faith under the bond ~~[.]~~ ***or deposit.*** Any payment must be based on written claims received by the ~~[surety]~~ ***insurer or the Division*** before any action is taken by a court.

~~[6.]~~ ***7.*** Claims against a bond ***or deposit*** have equal priority, and if the bond ***or deposit*** is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the ~~[intermediary]~~ ***licensee*** for the unpaid balance.

Sec. 50. NRS 645.6085 is hereby amended to read as follows:

645.6085 The Division shall deposit any money it receives from a civil penalty imposed pursuant to NRS 205.960 ***and section 38 of this act*** with the State Treasurer for credit to a separate account in the State General Fund. The Division shall expend at least 75 percent of the money so received to pay administrative costs related to:

1. The ~~[registration of intermediaries;]~~ ***licensing of exchange facilitators;*** and

2. Any program it develops to supply information regarding ~~[intermediaries]~~ ***exchange facilitators*** to the public.

➥ Any remaining money may be used by the Division to reimburse residents of Nevada for financial losses caused by the illegal conduct of an ~~[intermediary.]~~ ***exchange facilitator.***

Sec. 51. NRS 205.960 is hereby amended to read as follows:

205.960 1. It is unlawful for a person to enter into an agreement to act as ~~[an]~~ ***a qualified*** intermediary ~~[to hold the money of another person pursuant to an exchange of property which is or is purported to be tax free pursuant to 26 U.S.C. § 1031]~~ ***, as defined in 26 C.F.R. § 1.1031(k)-1(g)(4), for a client whose relinquished property is located in this State*** unless:

(a) ~~[The intermediary is a qualified intermediary as defined in 26 C.F.R. § 1.1031(k)-1(g);]~~ ***The proceeds from the disposition of the relinquished property are deposited into a qualified escrow account or qualified trust as defined in 26 C.F.R. § 1.1031(k)-1(g)(3).***

(b) ~~[The money is deposited in a qualified escrow account as defined in 26 C.F.R. § 1.1031(k)-1(g); and~~

~~(c)]~~ The money is held in such a manner that it may not be withdrawn from the ***qualified*** escrow account ***or qualified trust*** without the written approval of the intermediary and the ~~[person for whom he is holding the money.]~~ ***client.***

2. A person who violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. In addition to any other penalty imposed, the court shall order a person who violates subsection 1 to pay a civil penalty of not less than $10,000. The money so collected:

(a) Must not be deducted from any penal fine imposed by the court;

(b) Must be stated separately on the court's docket; and

(c) Must be remitted forthwith to the ~~[Administrator of the Real Estate Division of the Department of Business and Industry.]~~ ***Commissioner of Financial Institutions.***

Sec. 52. (Deleted by amendment.)

Sec. 52.5. NRS 692A.265 is hereby repealed.

Sec. 53. A regulation adopted by the Real Estate Division of the Department of Business and Industry pursuant to NRS 645.606 to 645.6085, inclusive, remains in effect as a regulation of the Division of Financial Institutions of the Department of Business and Industry until amended or repealed by the Division of Financial Institutions.

Sec. 54. As soon as is practicable after passage and approval of this act, the Legislative Counsel will transfer all the regulations created under NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act to the chapter of NAC that corresponds with the new chapter of NRS in which NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act are transferred.

Sec. 55. 1. This section and sections 2 to 44, inclusive, and 46 to 54, inclusive, of this act become effective on July 1, 2007.

2. Section 44 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Section 45 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Sections 45 and 46 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTION

692A.265 Title insurer, title agent or escrow officer prohibited from handling certain matters when intermediary involved is not registered; Real Estate Division to publish list of registered intermediaries.

1. A title insurer, title agent or escrow officer shall not handle an escrow, settlement or closing in which a qualified intermediary is involved unless he first verifies that the qualified intermediary is registered pursuant to NRS 645.606 to 645.6085, inclusive.

2. The Real Estate Division of the Department of Business and Industry shall, each calendar quarter, publish and distribute to each title insurer, title agent and escrow officer licensed by the Commissioner, a list of the qualified intermediaries registered pursuant to NRS 645.606 to 645.6085, inclusive. For the purposes of subsection 1, the registration of a qualified intermediary may be verified by ascertaining whether his name appears on the list most recently published pursuant to this subsection or, if his name does not appear on that list, by contacting the Real Estate Division.

3. As used in this section, "qualified intermediary" has the meaning ascribed to it in NRS 645.606.

Assemblyman Oceguera moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that upon return from the printer, Senate Bill No. 476 be placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 575.

Bill read third time.

Roll call on Senate Bill No. 575:

YEAS—42.

NAYS—None.

Senate Bill No. 575 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 576.

Bill read third time.

Roll call on Senate Bill No. 576:

YEAS—42.

NAYS—None.

Senate Bill No. 576 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Concurrent Resolution No. 35—Directing the Legislative Commission to conduct interim studies concerning chancery courts and issues relating to senior citizens and veterans.

Assemblywoman Koivisto moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 162.

Bill read third time.

Roll call on Assembly Bill No. 162:

YEAS—42.

NAYS—None.

Assembly Bill No. 162 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 393.

The following Senate amendment was read:

Amendment No. 1141.

AN ACT relating to motor vehicles; amending provisions relating to the wrecking and salvaging of vehicles; ~~[transferring the authority for the regulation of trade practices by garagemen from the Commissioner of Consumer Affairs to the Department of Motor Vehicles;]~~ requiring that a transferor of an interest in a motor vehicle indicate if the vehicle is a rebuilt vehicle or a reconstructed vehicle; **providing that a person shall be deemed to be engaged in a deceptive trade practice for certain activities involving the repair of a motor vehicle under certain circumstances; creating a revolving account for the Bureau of Consumer Protection in the Office of the Attorney General; authorizing the Commissioner of Consumer Affairs or the Director of the Department of Motor Vehicles to request an undercover investigation of a person for allegedly engaging in certain deceptive trade practices or violating certain provisions governing garages;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill sets forth the conditions under which an automobile wrecker, operator of a salvage pool, garageman or owner of a body shop is unfit to hold a license or registration, as applicable.

Section 4 of this bill set forth the conditions under which a salvage vehicle is considered to be in its entirety as opposed to when it is considered to be in parts.

Section 37 of this bill requires that a transferor of an interest in a motor vehicle indicate if the motor vehicle is a rebuilt or reconstructed motor vehicle.

Existing law provides for regulation of garages and garagemen by the Commissioner of Consumer Affairs and their registration with the Department of Motor Vehicles. (NRS 487.530-487.570, 597.480-597.590) ~~[Sections 5-19 of this bill transfer authority for regulation to the Department and provide for joint enforcement of those provisions by the Director of the Department and the Commissioner. Section 36 of this bill requires that a transferor of an interest in a motor vehicle indicate if the vehicle is a rebuilt vehicle or a reconstructed vehicle.]~~ **Sections 39-44 of this bill make certain provisions concerning deceptive trade practices applicable to garages and garagemen. Section 41 of this bill authorizes the Commissioner or the Director of the Department to request an undercover investigation of a person by the Bureau of Consumer Protection in the Office of the Attorney General for alleged violations of those provisions. Section 31 of this bill authorizes the Director to suspend, revoke or refuse to renew a registration to operate a garage if he determines that the garage has engaged in a deceptive trade practice or violated certain provisions governing garages. Section 44 of this bill requires the Commissioner to prepare an annual report concerning garages and garagemen.**

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

Section 1. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. ***As used in this section, NRS 487.050 to 487.200, inclusive, and sections 3 and 4 of this act, unless the context otherwise requires, "automobile wrecker" or "wrecker" means a person who obtains a license to dismantle, scrap, process or wreck any vehicle, including, without limitation, wrecked, salvage, nonrepairable, abandoned and junk vehicles, which includes, without limitation, removing or selling an individual part or parts of such a vehicle or crushing, shredding or dismantling such a vehicle to be disposed of as scrap metal.***

Sec. 3. ***Evidence of unfitness of an applicant, registrant or licensee for purposes of denial, suspension or revocation of or failure to renew a license or registration as an automobile wrecker, operator of a salvage***

pool, garageman or owner of a body shop may consist of, but is not limited to, the applicant, registrant or licensee:

1. Purchasing, selling, dismantling, disposing of or having in his possession any vehicle which he knows, or a reasonable person should know, is stolen or otherwise illegally appropriated.

2. Being the former holder of, or being a partner, officer, director, owner or manager involved in management decisions of, an automobile wrecker that held a license issued pursuant to this chapter which was revoked for cause and never reissued or was suspended upon terms which were never fulfilled.

3. Defrauding or attempting to defraud the State or a political subdivision of the State of any taxes or fees in connection with the sale or transfer of a vehicle.

4. Forging the signature of the registered or legal owner of an abandoned vehicle on any document that releases the interest of the owner in the abandoned vehicle.

5. Forging the signature of the registered or legal owner of a vehicle on a certificate of title or other document to obtain or transfer ownership in that vehicle.

6. Willfully failing to deliver to a purchaser a salvage title to a vehicle that the applicant, registrant or licensee has sold.

7. Refusing to allow any peace officer or agent of ~~[a]~~ the state agency to inspect, during normal business hours, all books, records and files of the applicant, registrant or licensee which are maintained within the State.

8. Committing any fraud which includes, without limitation:

(a) Misrepresenting in any manner, whether intentional or grossly negligent, a material fact.

(b) Intentionally failing to disclose a material fact.

9. Willfully failing to comply with any regulation adopted by the Department.

Sec. 4. ***1. Whenever an entire salvage vehicle is sold to any person by a licensed automobile wrecker, the automobile wrecker shall deliver a properly endorsed salvage title to the buyer for such an entire salvage vehicle.***

2. A salvage vehicle shall be deemed an entire salvage vehicle:

(a) If all the following essential components are included and identifiable as coming from the same salvage vehicle:

(1) The cowl assembly;

(2) The floor pan assembly;

(3) The passenger compartment;

(4) The rear clip assembly; and

(5) The roof assembly; and

(b) In addition to the essential components required pursuant to paragraph (a):

(1) If the salvage vehicle was manufactured with a conventional frame, the conventional frame is included and identifiable as coming from the same salvage vehicle;

(2) If the salvage vehicle was manufactured with a unibody, the complete front inner structure is included and identifiable as coming from the same salvage vehicle;

(3) If the salvage vehicle is a truck which was manufactured with a conventional frame, the conventional frame and the truck cab assembly are included and identifiable as coming from the same salvage vehicle; and

(4) If the salvage vehicle is a truck which was manufactured with a unibody, the complete front inner structure and the truck cab assembly are included and identifiable as coming from the same salvage vehicle.

3. A salvage vehicle that does not satisfy the requirements of subsection 2 is deemed a part or parts of an entire salvage vehicle.

Sec. 5. ~~*[A person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:*~~

~~*1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or*~~

~~*2. Engages in any other acts prescribed by the Commissioner of Consumer Affairs by regulation as a deceptive trade practice.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~*["Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance company, its agents or representatives, authorizing repairs to motor vehicles under a policy of insurance.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~*[1. Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:*~~

~~*STATE OF NEVADA*~~

~~*REGISTERED GARAGE*~~

~~*THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF MOTOR VEHICLES*~~

~~*NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS*~~

~~*AS A CUSTOMER IN NEVADA:*~~

~~*YOU have the right to receive repairs from a business that is REGISTERED with the Department of Motor Vehicles as a garage authorized to repair motor vehicles. (cite to this section of this act)*~~

~~*YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 9 of this act)*~~

~~*YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)*~~

~~*YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 13 of this act)*~~

~~*YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 13 of this act)*~~

~~*YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 10 of this act)*~~

~~*YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (NRS 487.035)*~~

~~*YOU have the right to a FAIR RESOLUTION of any dispute that develops concerning the repair of your vehicle. (cite to this section of this act)*~~

~~*FOR MORE INFORMATION PLEASE CONTACT:*~~

~~*THE DEPARTMENT OF MOTOR VEHICLES*~~

~~*IN CLARK COUNTY: (telephone number for the Department of Motor Vehicles in Clark County)*~~

~~*ALL OTHER AREAS TOLL-FREE: (toll-free telephone number for the Department of Motor Vehicles)*~~

~~*2. The sign required pursuant to the provisions of subsection 1 must include a replica of the great seal of the State of Nevada. The seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."*~~

~~*3. Any person who violates the provisions of this section is guilty of a misdemeanor.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[If any garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, he shall comply with the provisions of sections 7 to 19, inclusive, of this act.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~*[1. Except as otherwise provided in section 11 of this act, a person requesting or authorizing the repair of a motor vehicle that is more than $50 must be furnished an estimate or statement signed by the person making the estimate or statement on behalf of the garageman, indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.*~~

~~*2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:*~~

~~*(a) Diagnosis and disassembly; and*~~

~~*(b) Reassembly, if the person does not authorize the repair.*~~

~~*3. The provisions of this section do not require a garageman to reassemble a motor vehicle if he determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~*[Except as otherwise provided in section 11 of this act, if it is determined that additional charges are required to perform the repair authorized, and those additional charges exceed, by 20 percent or $100, whichever is less, the amount set forth in the estimate or statement required*~~

~~*to be furnished pursuant to the provisions of section 9 of this act, the garageman shall notify the person authorizing the repairs of the amount of those additional charges.]*~~ **(Deleted by amendment.)**

Sec. 11. ~~*[The person authorizing the repairs may waive the estimate or statement required pursuant to the provisions of section 9 of this act or the notification required by section 10 of this act by executing a written waiver of that requirement or notification. The waiver must be executed by the person authorizing the repairs at the time he authorizes those repairs or at any time before the repairs are performed.]*~~ **(Deleted by amendment.)**

Sec. 12. ~~*[1. A person authorizing repairs who has been notified of additional charges pursuant to section 10 of this act shall:*~~

~~*(a) Authorize the performance of the repair at the additional expense; or*~~

~~*(b) Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.*~~

~~*2. Until the election provided for in subsection 1 has been made, the garageman shall not undertake any repair which would involve such additional charges.*~~

~~*3. If the person elects to take possession of the motor vehicle but fails to take possession within a 24-hour period after such election, the garageman may charge for storage of the vehicle.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~*[1. If the repair work performed on a motor vehicle requires the replacement of any parts or accessories, the garageman shall, at the request of the person authorizing the repairs or any person entitled to possession of the motor vehicle, deliver to such person all parts and accessories replaced as a result of the work done.*~~

~~*2. The provisions of subsection 1 do not apply to parts or accessories which must be returned to a manufacturer or distributor under a warranty arrangement or which are subject to exchange, but the customer on request is entitled to be shown such warranty parts for which a charge is made.]*~~ **(Deleted by amendment.)**

Sec. 14. ~~*[The garageman shall retain copies of any estimate, statement or waiver required by sections 10 to 13, inclusive, of this act as an ordinary business record of the garage, for a period of not less than 1 year after the date such estimate, statement or waiver is signed.]*~~ **(Deleted by amendment.)**

Sec. 15. ~~*[In every instance where charges are made for the repair of a motor vehicle, the garageman making the repairs shall comply with the provisions of NRS 487.035 as well as the provisions of sections 10 to 13, inclusive, of this act. He is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such lien, nor shall he have the right to sue on any contract for repairs made by him, unless he has complied with the requirements of sections 10 to 13, inclusive, of this act in addition to those of NRS 487.035.]*~~ **(Deleted by amendment.)**

Sec. 16. ~~[1. A person may file with the Director a complaint alleging that he has been aggrieved by a deceptive trade practice or any violation of sections 7 to 19, inclusive, of this act. Such a complaint must:~~

~~(a) Be submitted in writing in the form prescribed by the Director; or~~

~~(b) Be reported to the Director via the toll-free telephone number established pursuant to NRS 598.990.~~

~~2. Upon receipt of a complaint submitted pursuant to subsection 1, the Director:~~

~~(a) If the complaint alleges that a garageman engaged in a deceptive trade practice, shall submit the complaint to the Commissioner of Consumer Affairs. The Commissioner:~~

~~(1) Shall investigate the merits of the complaint and may submit his findings to the Director; and~~

~~(2) May request that the Attorney General or a district attorney take action pursuant to subsection 3.~~

~~(b) If the complaint alleges that a garageman committed a violation of sections 7 to 19, inclusive, of this act:~~

~~(1) Shall investigate the merits of the complaint and may submit his findings to the Commissioner; and~~

~~(2) May request that the Attorney General or a district attorney take action pursuant to subsection 3.~~

~~3. The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director, of the Commissioner or of any person allegedly aggrieved by any deceptive trade practice or violation of the provisions of sections 7 to 19, inclusive, of this act to obtain an injunction, temporary restraining order or other appropriate relief.]~~ **(Deleted by amendment.)**

Sec. 17. ~~[1. There is hereby created a Revolving Account for the Bureau of Consumer Protection created within the Office of the Attorney General pursuant to NRS 228.310 in the sum of $7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 7 to 19, inclusive, of this act.~~

~~2. The Consumer's Advocate appointed pursuant to NRS 228.320 shall deposit the money in the Revolving Account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.~~

~~3. The Consumer's Advocate or his designee may:~~

~~(a) Sign all checks drawn upon the Revolving Account; and~~

~~(b) Make withdrawals of cash from the Revolving Account.~~

~~4. Payments made from the Revolving Account must be promptly reimbursed from the legislative appropriation, if any, to the Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or~~

~~*violating the provisions of sections 7 to 19, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.*~~

~~*5. The Consumer's Advocate shall:*~~

~~*(a) Approve any disbursement from the Revolving Account; and*~~

~~*(b) Maintain records of any such disbursement.]*~~ **(Deleted by amendment.)**

Sec. 18. ~~*[1. The Commissioner of Consumer Affairs or the Director may request an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 7 to 19, inclusive, of this act.*~~

~~*2. The Bureau of Consumer Protection created within the Office of the Attorney General pursuant to NRS 228.310 may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 7 to 19, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.]*~~ **(Deleted by amendment.)**

Sec. 19. ~~*[1. In addition to any other penalty, the Commissioner of Consumer Affairs may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Commissioner shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*~~

~~*2. The Commissioner may negotiate the recovery of losses by a person aggrieved by a deceptive trade practice from the garageman who engaged in the practice in lieu of imposing an administrative fine, and may mediate any disputes between customers and garagemen.*~~

~~*3. All administrative fines collected by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.*~~

~~*4. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Commissioner may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.]*~~ **(Deleted by amendment.)**

Sec. 20. ~~[NRS 487.035 is hereby amended to read as follows:~~

~~487.035 1. If charges are made for the repair of a motor vehicle, the [person] *garageman or operator of the body shop* making the charges shall present to the person requesting the repairs or the person entitled to possession of the motor vehicle a statement of the charges containing the following information:~~

~~(a) The name and signature of the person authorizing or requesting the repairs;~~

~~(b) A statement of the total charges;~~

~~(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for each part;~~

~~(d) A statement of the charges made for labor; and~~

~~(e) A description of all other charges.~~

~~2. Any person violating this section is guilty of a misdemeanor.~~

~~3. In the case of a motor vehicle registered in the State of Nevada, no lien for labor or materials provided under NRS 108.265 to 108.360, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, such notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.~~

~~4. As used in this section, "motor vehicle" has the meaning ascribed to it in NRS 487.550.]~~ **(Deleted by amendment.)**

Sec. 21. **NRS 487.001 is hereby amended to read as follows:**

487.001 1. The provisions of this chapter, except NRS ~~[487.035 and]~~ 487.290, apply to mobile homes although not licensed or registered.

2. As used in this section, "mobile home" means a vehicular structure, built on a chassis or frame, which is designed to be used with or without a permanent foundation and is capable of being drawn by a motor vehicle. The term does not include a recreational park trailer as defined in NRS 482.1005.

~~[Sec. 21.]~~ ***Sec. 22.*** NRS 487.160 is hereby amended to read as follows:

487.160 1. The Department ~~[, after notice and hearing,]~~ may suspend, revoke or refuse to renew a license of an automobile wrecker upon determining that the automobile wrecker:

(a) Is not lawfully entitled thereto;

(b) Has made, or knowingly or negligently permitted, any illegal use of that license;

(c) Has failed to return a salvage title to the state agency when and as required of him by NRS 487.710 to 487.890, inclusive; or

(d) Has failed to surrender to the state agency certificates of title for vehicles before beginning to dismantle or wreck the vehicles.

2. The applicant or licensee may, within 30 days after receipt of the notice of refusal, suspension or revocation, petition the Department in writing for a hearing.

3. Hearings under this section and appeals therefrom must be conducted in the manner prescribed in NRS 482.353 and 482.354.

4. The Department may suspend, revoke or refuse to renew a license of an automobile wrecker, or ***may*** deny a license to an applicant therefor, ***for***

any reason determined by the Director to be in the best interest of the public, or if the licensee or applicant:

(a) Does not have or maintain an established place of business in this State.

(b) Made a material misstatement in any application.

(c) Willfully fails to comply with any applicable provision of this chapter.

(d) Fails to furnish and keep in force any bond required by NRS 487.050 to 487.200, inclusive.

(e) Fails to discharge any final judgment entered against him when the judgment arises out of any misrepresentation of a vehicle, trailer or semitrailer.

(f) Fails to maintain any license or bond required by a political subdivision of this State.

(g) Has been convicted of a felony.

(h) Has been convicted of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(i) Fails or refuses to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 7.

(j) Knowingly submits or causes to be submitted any false, forged or otherwise fraudulent document to the Department to obtain a lien, title, salvage title or certificate of ownership, or any duplicate thereof, for a vehicle.

(k) Knowingly causes or allows a false, forged or otherwise fraudulent document to be maintained as a record of his business.

(l) Interferes with or refuses to allow an agent of the Department or any peace officer ~~[or agent of a state agency]~~ access to and, upon demand, the opportunity to examine any record held in conjunction with the operation of the wrecker.

(m) Displays evidence of unfitness for a license pursuant to section 3 of this act.

5. If an application for a license as an automobile wrecker is denied, the applicant may not submit another application for at least 6 months after the date of the denial.

6. The Department may refuse to review a subsequent application for licensing submitted by any person who violates any provision of this chapter.

7. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy any financial obligation related to the business of dismantling, scrapping, processing or wrecking of vehicles, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an

authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.050 to 487.200, inclusive, ***and sections 2, 3 and 4 of this act*** or to determine the suitability of an applicant or a licensee for such licensure.

8. For the purposes of this section, failure to adhere to the directives of the state agency advising the licensee of his noncompliance with any provision of NRS 487.050 to 487.200, inclusive, ***and sections 2, 3 and 4 of this act*** or NRS 487.710 to 487.890, inclusive, or regulations of the state agency, within 10 days after the receipt of those directives, is prima facie evidence of willful failure to comply.

~~[Sec. 22.]~~ ***Sec. 23.*** NRS 487.170 is hereby amended to read as follows:

487.170 Every licensed automobile wrecker, rebuilder or scrap processor shall maintain a record of all vehicles ***acquired and processed, junked,*** dismantled ~~[or wrecked, which contains the name and]~~ ***, wrecked, sold as a part or parts or disposed of as scrap metal. The records must be open to inspection during business hours by any peace officer or investigator of*** ~~*[a]*~~ ***the state agency. Every vehicle record must contain:***

1. The name, address ***and original signature*** of the person from whom the vehicle was ~~[purchased or acquired and the date thereof, the]~~ ***acquired, until such time as the original signature is submitted to the Department, at which time the record must contain a duplicate of the signature;***

2. The date the vehicle was acquired;

3. The manner in which the vehicle was acquired by the wrecker, rebuilder or scrap processor;

4. The registration number last assigned to the vehicle ***;*** and ~~[a]~~

5. A brief description of the vehicle, including, insofar as the data may exist with respect to a given vehicle, the make, type, serial number and motor number, or any other number of the vehicle. ~~[The record must be open to inspection during business hours by any peace officer or investigator of the state agency.]~~

~~[Sec. 23.]~~ ***Sec. 24.*** NRS 487.200 is hereby amended to read as follows:

487.200 Any person who violates any of the provisions of NRS 487.050 to 487.200, inclusive, ***and sections 2, 3 and 4 of this act*** is guilty of a misdemeanor.

~~[Sec. 24.]~~ ***Sec. 25.*** NRS 487.260 is hereby amended to read as follows:

487.260 1. If the vehicle is appraised at a value of more than $500 ***,*** the state agency or political subdivision shall dispose of it as provided in NRS 487.270.

2. If the vehicle is appraised as a junk vehicle, the Department may issue a junk certificate to the automobile wrecker or tow operator who removed the vehicle.

3. An automobile wrecker who possesses a junk certificate for a junk vehicle may dismantle, scrap, crush or otherwise destroy the vehicle.

4. A vehicle for which a junk certificate has been issued may be sold to an automobile wrecker by the person to whom the junk certificate was issued by the seller's endorsement on the certificate. An automobile wrecker who purchases a vehicle for which a junk certificate has been issued ***shall immediately affix the business name of the automobile wrecker as purchaser to the first available space provided on the reverse side of the certificate. For the purposes of this subsection, such an automobile wrecker is the owner of the junk vehicle.***

5. If insufficient space exists on the reverse side of a junk certificate to transfer the vehicle pursuant to subsection 4, an automobile wrecker who purchases a junk vehicle for which a junk certificate has been previously issued shall, within 10 days after purchase, apply to the Department for a new junk certificate and surrender the original certificate.

~~[5.]~~ ***6.*** A person who sells, dismantles, scraps, crushes or otherwise destroys a junk vehicle shall maintain, for at least 2 years, a copy of the junk certificate and a record of the name and address of the person from whom the vehicle was acquired and the date thereof. He shall allow any peace officer or any investigator employed by a state agency to inspect the records during business hours.

~~[6.]~~ ***7.*** As used in this section, "junk vehicle" means a vehicle, including component parts, which:

(a) Has been discarded or abandoned;

(b) Has been ruined, wrecked, dismantled or rendered inoperative;

(c) Is unfit for further use in accordance with the original purpose for which it was constructed;

(d) Is not registered with the Department or has not been reclaimed by the registered owner or a person having a security interest in the vehicle within 15 days after notification pursuant to NRS 487.250; and

(e) Has value principally as scrap which does not exceed $200.

~~[Sec. 25.]~~ ***Sec. 26.*** NRS 487.490 is hereby amended to read as follows:

487.490 1. The Department may refuse to issue a license or ~~[, after notice and hearing,]~~ may suspend, revoke or refuse to renew a license of an operator of a salvage pool upon determining that the operator:

(a) Is not lawfully entitled to the license;

(b) Has made, or knowingly or negligently permitted, any illegal use of that license;

(c) Made a material misstatement in any application;

(d) Willfully fails to comply with any provision of NRS 487.400 to 487.510, inclusive;

(e) Fails to discharge any final judgment entered against him when the judgment arises out of any misrepresentation regarding a vehicle;

(f) Fails to maintain any license or bond required by a political subdivision of this State;

(g) Has been convicted of a felony;

(h) Has been convicted of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter; ~~[or]~~

(i) Fails or refuses to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 6 ~~[.]~~ ***;or***

(j) Displays evidence of unfitness for a license pursuant to section 3 of this act.

2. The applicant or licensee may, within 30 days after receipt of the notice of refusal to grant or renew or the suspension or revocation of a license, petition the Department in writing for a hearing.

3. Hearings under this section and appeals therefrom must be conducted in the manner prescribed in NRS 482.353 and 482.354.

4. If an application for a license as an operator of a salvage pool is denied, the applicant may not submit another application for at least 6 months after the date of the denial.

5. The Department may refuse to review a subsequent application for licensing submitted by any person who violates any provision of NRS 487.400 to 487.510, inclusive.

6. Upon the receipt of any report or complaint that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a salvage pool, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.400 to 487.510, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

7. For the purposes of this section, the failure to adhere to the directives of the Department advising the licensee of his noncompliance with any provision of NRS 487.400 to 487.510, inclusive, or regulations of the Department, within 10 days after the receipt of those directives, is prima facie evidence of willful failure to comply.

~~[Sec. 26.]~~ ***Sec. 27.*** ~~[NRS 487.530 is hereby amended to read as follows:~~

~~487.530 As used in NRS 487.530 to 487.570, inclusive, *and sections 5 to 19, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS~~ [487.535] ~~*487.540* to 487.550, inclusive, *and sections 5 and 6 of this act* have the meanings ascribed to them in those sections.]~~

(Deleted by amendment.)

~~[Sec. 27.]~~ ***Sec. 28.*** ~~[NRS 487.555 is hereby amended to read as follows:~~

~~487.555 The provisions of NRS 487.530 to 487.570, inclusive, *and sections 5 to 19, inclusive, of this act* do not apply to a service station that is exclusively engaged in the business of selling motor vehicle fuel, lubricants or goods unrelated to the repair of motor vehicles.]~~ **(Deleted by amendment.)**

~~[Sec. 28.]~~ ***Sec. 29.*** NRS 487.560 is hereby amended to read as follows:

487.560 1. On and after January 1, 1998, a garageman shall register with the Department for authorization to operate a garage.

2. An application for registration must be on a form provided by the Department. The application must include:

(a) The name of the applicant, including each name under which he intends to do business;

(b) The complete street address of each location from which the applicant will be conducting business, including a designation of the location that will be his principal place of business;

(c) A copy of the business license for each garage operated by the applicant if the county or city in which the applicant operates a garage requires such a license;

(d) The type of repair work offered at each garage operated by the applicant;

(e) The number of mechanics employed at each garage operated by the applicant; ***and***

(f) ~~[The statement required by NRS 487.563; and~~

~~(g)]~~ Any other information required by the Department.

3. Except as otherwise provided in this subsection, for each garage operated by an applicant, the Department shall charge a fee of $25 for the issuance or renewal of registration. If an applicant operates more than one garage, he may file one application if he clearly indicates on the application the location of each garage operated by the applicant and each person responsible for the management of each garage. The Department shall waive the fee for the issuance or renewal of registration for a person that is licensed as:

(a) An authorized inspection station, authorized maintenance station or authorized station pursuant to chapter 445B of NRS;

(b) A manufacturer, distributor, dealer or rebuilder pursuant to chapter 482 of NRS; or

(c) An automobile wrecker, salvage pool or body shop pursuant to chapter 487 of NRS.

4. All fees collected pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Regulation of Salvage Pools, Automobile Wreckers, Body Shops and Garages.

5. An applicant for registration or renewal of registration shall notify the Department of any material change in the information contained in his application for registration or renewal within 10 days after his knowledge of the change.

~~[Sec. 29.]~~ ***Sec. 30.*** NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 ~~[must include in the application a written statement to the Department that specifies whether he agrees to submit to binding arbitration any claims against him arising out of a contract for repairs made by him to a motor vehicle. If the person fails to submit the statement to the Department or specifies in the statement that he does not agree to arbitrate those claims, the person]~~ shall file with the Department a bond in the amount of $5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of NRS ~~[487.035,]~~ 487.530 to 487.570, inclusive, and 597.480 to 597.590, inclusive ~~[.]~~ ***, and sections*** ~~*[5 to 19,]*~~ ***39 to 44, inclusive, of this act.***

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. ***The bond must provide that any person injured by the action of the garageman may:***

(a) Apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make payment.

(b) Present to the Director an order of a court requiring the Director to pay to the person an amount of compensation from the bond. The Director shall inform the surety, and the surety shall then make payment.

4. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

~~[4. If a claim is arbitrated pursuant to the provisions of this section, the proceedings for arbitration must be conducted in accordance with the provisions of NRS 38.206 to 38.248, inclusive.~~

~~5. If a person:~~

~~(a) Submits the statement to the Department specifying that he agrees to arbitrate a claim pursuant to the provisions of subsection 1; and~~

~~(b) Fails to submit to binding arbitration any claim specified in that subsection,~~

~~➥ the person asserting the claim may notify the Department of that fact. Upon receipt of the notice, the Department shall, after notice and hearing, revoke or refuse to renew the certificate of registration of the person who failed to submit the claim to arbitration.~~

~~6.]~~ ***5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the garageman or released upon receipt of:***

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting that the Director release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, ***or fails to pay or otherwise discharge any final judgment rendered and entered against him or any court order issued and arising out of the repair of a motor vehicle in the operation of a garage,*** the Department shall ~~[, after notice and hearing,]~~ revoke or refuse to renew the certificate of registration of the person who failed to comply with the order ~~[.]~~ ***or satisfy the judgment.***

7. The Department may reinstate or renew a certificate of registration that is ~~[:~~

~~(a) Revoked pursuant to the provisions of subsection 5 if the person whose certificate of registration is revoked:~~

~~(1) Submits the claim to arbitration pursuant to the provisions of subsection 4 and notifies the Department of that fact; or~~

~~(2) Files a bond or makes a deposit with the Department pursuant to the provisions of this section.~~

~~(b) Revoked]~~ ***revoked*** pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.

8. A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 before the reinstatement of his registration.

~~[Sec. 30.]~~ ***Sec. 31.*** NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or ~~[, after notice and hearing,]~~ may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) The Director determines that the garage or garageman has engaged in a deceptive trade practice or violated the provisions of NRS 597.480 to 597.590, inclusive, and sections ~~[7 to 19,]~~ 39 to 44, inclusive, of this act.

(d) Evidence of unfitness of the applicant or registrant pursuant to section 3 of this act.

(e) A violation of any regulation adopted by the Department governing the operation of a garage.

(f) A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.

2. ***A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.***

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

~~[Sec. 31.]~~ ***Sec. 32.*** NRS 487.565 is hereby amended to read as follows:

487.565 1. If the Department receives an application for registration that contains the information required by NRS 487.560, it shall issue to the applicant a certificate of registration for each garage operated by the applicant. The certificate must contain the name of the applicant, the name under which his business will be conducted, the address of his business and the registration number for the garage.

2. A certificate of registration is valid for 1 year after the date of issuance. A garageman may renew his registration by submitting to the Department:

(a) An application for renewal on a form provided by the Department; and

(b) Except as otherwise provided in NRS 487.560, the fee for renewal set forth in that section.

~~[➥ The application must include the statement required by NRS 487.563.]~~

~~[Sec. 32.]~~ ***Sec. 33.*** ~~[NRS 487.568 is hereby amended to read as follows:~~

~~487.568 A person who violates any provision of NRS 487.530 to 487.570, inclusive, *and sections 5 to 19, inclusive, of this act* is guilty of a misdemeanor.]~~ **(Deleted by amendment.)**

~~[Sec. 33.]~~ ***Sec. 34.*** NRS 487.570 is hereby amended to read as follows:

487.570 A garageman shall comply with the provisions of NRS 597.480 to 597.590, inclusive ~~[.]~~ ***and sections ~~[7 to 19,]~~ 39 to 44, inclusive, of this act.***

~~[Sec. 34.]~~ ***Sec. 35.*** NRS 487.640 is hereby amended to read as follows:

487.640 1. No license may be issued to an operator of a body shop until he procures and files with the Department a good and sufficient bond in the amount of $10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of NRS ~~[487.035, sections 7 to 19, inclusive, of this act and NRS]~~ 487.600 to 487.690, inclusive ~~[.]~~ , and 597.480 to 597.590, inclusive ~~[.]~~ ***, and sections 39 to 44, inclusive, of this act.*** The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than $1,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of NRS ~~[487.035, sections 7 to 19, inclusive, of this act and NRS]~~ 487.600 to 487.690, inclusive ~~[.]~~ , and 597.480 to 597.590, inclusive, ***and sections 39 to 44, inclusive, of this act,*** may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a body shop may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing,

in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

~~[Sec. 35.]~~ ***Sec. 36.*** NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or ~~[, after notice and hearing,]~~ may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS ~~[487.035,]~~ 487.610 to 487.690, inclusive, or 597.480 to 597.590, inclusive ~~[.]~~ ***and sections*** ~~*[7 to 19,]*~~ ***39 to 44, inclusive, of this act.***

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilt by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(j) The display of evidence of unfitness for a license pursuant to section 3 of this act.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

~~[Sec. 36.]~~ ***Sec. 37.*** NRS 487.830 is hereby amended to read as follows:

487.830 1. Any person who transfers an interest in a motor vehicle in this State shall, before the transfer, disclose in writing to the transferee any information that the transferor knows or reasonably should know concerning whether the vehicle is a salvage vehicle ~~[.]~~ ***, a rebuilt vehicle or a reconstructed vehicle, as that term is defined in NRS 482.100.***

2. If the transferor is subject to any of the provisions of NRS 482.423 to 482.4245, inclusive, the transferor shall:

(a) Make the disclosure required by subsection 1 before executing a contract of sale or a long-term lease;

(b) Provide a copy of the disclosure to the transferee; and

(c) Retain the written disclosure in his records for the period specified in NRS 482.3263.

3. A person who violates subsection 1 is guilty of obtaining property by false pretenses as provided in NRS 205.380.

Sec. 38. **Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 39 to 44, inclusive, of this act.**

Sec. 39. ***A person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:***

1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or

2. Engages in any other acts prescribed by the Commissioner by regulation as a deceptive trade practice.

Sec. 40. ***1. There is hereby created a revolving account for the Bureau of Consumer Protection in the Office of the Attorney General in the sum of $7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of NRS 597.480 to 597.590, inclusive, and sections 39 to 44, inclusive, of this act.***

2. The Consumer's Advocate appointed pursuant to NRS 228.320 shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

3. The Consumer's Advocate or his designee may:

(a) Sign all checks drawn upon the revolving account; and

(b) Make withdrawals of cash from the revolving account.

4. Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of NRS 597.480 to 597.590, inclusive, and sections 39 to 44, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.

5. The Consumer's Advocate shall:

(a) Approve any disbursement from the revolving account; and

(b) Maintain records of any such disbursement.

Sec. 41. ***1. The Commissioner or the Director of the Department of Motor Vehicles may request an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of NRS 597.480 to 597.590, inclusive, and sections 39 to 44, inclusive, of this act.***

2. The Bureau of Consumer Protection in the Office of the Attorney General may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of NRS 597.480 to 597.590, inclusive, and sections 39 to 44, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.

Sec. 42. ***1. In addition to any other penalty, the Commissioner may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Commissioner shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.***

2. The Commissioner may negotiate the recovery of losses by a person aggrieved by a deceptive trade practice from the garageman who or body shop that engaged in the practice in lieu of imposing an administrative fine, and may mediate any disputes between customers and garagemen or body shops.

3. All administrative fines collected by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

4. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Commissioner may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 43. ***1. If charges are made for the repair of a motor vehicle, the garageman or body shop making the charges shall present to the person authorizing repairs or the person entitled to possession of the motor vehicle a statement of the charges setting forth the following information:***

(a) The name and signature of the person authorizing repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for labor; and

(d) A description of all other charges.

2. Any person violating this section is guilty of a misdemeanor.

3. In the case of a motor vehicle registered in this State, no lien for labor or materials provided under NRS 108.265 to 108.360, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, the notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

Sec. 44. ***1. On or before January 1 of each year, the Commissioner shall prepare a report concerning garages, garagemen and body shops. The report must include:***

(a) The number of complaints relating to garages, garagemen and body shops:

(1) Made to and acted upon by the Consumer Affairs Division during the year for which the report is prepared; and

(2) Provided to the Department of Motor Vehicles from the Consumer Affairs Division for the year for which the report is prepared and the number of those complaints acted upon by the Department of Motor Vehicles during that year;

(b) The number of investigations conducted during that year by the Consumer Affairs Division and the Department of Motor Vehicles relating to garages, garagemen and body shops;

(c) The outcome of each investigation specified in paragraph (b) and the extent to which any information relating to each investigation is subject to disclosure to the members of the public;

(d) A discussion of the progress made during that year concerning the joint efforts of the Consumer Affairs Division and the Department of Motor Vehicles relating to the complaints and investigations included in the report pursuant to paragraphs (a) and (b); and

(e) A discussion of the progress made by the Consumer Affairs Division in enhancing its electronic communications with the Department of Motor Vehicles.

2. On or before January 1 of each even-numbered year, the Commissioner shall submit the report required pursuant to subsection 1 to the Legislative Commission. On or before January 1 of each odd-numbered year, the Commissioner shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(a) The Senate Standing Committee on Transportation and Homeland Security; and

(b) The Assembly Standing Committee on Transportation.

3. As used in this section, "Consumer Affairs Division" means the Consumer Affairs Division of the Department of Business and Industry.

Sec. 45. **NRS 597.480 is hereby amended to read as follows:**

597.480 As used in NRS 597.480 to 597.590, inclusive, ***and sections 39 to 44, inclusive, of this act,*** unless the context otherwise requires:

1. ***"Commissioner" means the Commissioner of Consumer Affairs.***

2. "Garage" has the meaning ascribed to it in NRS 487.540.

~~[2.]~~ ***3.*** "Garageman" has the meaning ascribed to it in NRS 487.545.

~~[3.]~~ ***4.*** "Motor vehicle" means:

(a) A motorcycle as defined in NRS 482.070;

(b) A motortruck as defined in NRS 482.073 if the gross weight of the vehicle does not exceed 10,000 pounds;

(c) A passenger car as defined in NRS 482.087;

(d) A mini motor home as defined in NRS 482.066;

(e) A motor home as defined in NRS 482.071; and

(f) A recreational vehicle as defined in NRS 482.101.

~~[4.]~~ ***5.*** "Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance company, its agents or

representatives, authorizing repairs to motor vehicles under a policy of insurance.

Sec. 46. **NRS 597.490 is hereby amended to read as follows:**

597.490 1. Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA
REGISTERED GARAGE
THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF MOTOR VEHICLES
NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS
AS A CUSTOMER IN NEVADA:
YOU have the right to receive repairs from a business that is ***REGISTERED*** with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (NRS 597.490)
YOU have the right to receive a ***WRITTEN ESTIMATE*** of charges for repairs made to your vehicle which exceed $50. (NRS 597.510)
YOU have the right to read and understand all documents and warranties ***BEFORE YOU SIGN THEM.*** (NRS 597.490)
YOU have the right to ***INSPECT ALL REPLACED PARTS*** and accessories that are covered by a warranty and for which a charge is made. (NRS 597.550)
YOU have the right to request that all replaced parts and accessories that are not covered by a warranty ***BE RETURNED TO YOU AT THE TIME OF SERVICE.*** (NRS 597.550)
YOU have the right to require authorization ***BEFORE*** any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (NRS 597.520)
YOU have the right to receive a ***COMPLETED STATEMENT OF CHARGES*** for repairs made to your vehicle. ~~[(NRS 487.035)]~~ ***(Section 43 of this act)***
YOU have the right to a ***FAIR RESOLUTION*** of any dispute that develops concerning the repair of your vehicle. (NRS 597.490)
FOR MORE INFORMATION PLEASE CONTACT:
THE DEPARTMENT OF BUSINESS AND INDUSTRY
CONSUMER AFFAIRS DIVISION
IN CLARK COUNTY: (702) 486-7355
ALL OTHER AREAS TOLL-FREE: 1-800-326-5202

2. The sign required pursuant to the provisions of subsection 1 must include a replica of the great seal of the State of Nevada. The seal must be 2 inches in diameter and be centered on the face of the sign directly above the words “STATE OF NEVADA.”

3. Any person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 47. **NRS 597.500 is hereby amended to read as follows:**

597.500 Whenever any garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, he shall comply with the provisions of NRS 597.510 to 597.570, inclusive ~~[.]~~ ***, and sections 39 to 44, inclusive, of this act.***

Sec. 48. **NRS 597.560 is hereby amended to read as follows:**

597.560 The garageman shall retain copies of any estimate, statement or waiver required by NRS 597.510 to 597.550, inclusive, ***and sections 39 to 44, inclusive, of this act*** as an ordinary business record of the garage, for a period of not less than 1 year ~~[from]~~ ***after*** the date ~~[such]~~ ***the*** estimate, statement or waiver is signed.

Sec. 49. **NRS 597.570 is hereby amended to read as follows:**

597.570 In every instance where charges are made for the repair of a motor vehicle, the garageman making the repairs shall comply with the provisions of NRS ~~[487.035 as well as the provisions of NRS]~~ 597.510 to 597.550, inclusive ~~[.]~~ ***, and sections 39 to 44, inclusive, of this act.*** He is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such lien, nor shall he have the right to sue on any contract for repairs made by him, unless he has complied with the requirements of NRS 597.510 to 597.550, inclusive, ***and sections 39 to 44, inclusive, of this act,*** in addition to those of NRS 487.035.

Sec. 50. **NRS 597.580 is hereby amended to read as follows:**

597.580 The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Commissioner ~~[of Consumer Affairs]~~ or of any person allegedly aggrieved by such violation to enjoin any violation of the provisions of NRS 597.510 to 597.570, inclusive ~~[.]~~ ***, and sections 39 to 44, inclusive, of this act.***

Sec. 51. **NRS 597.590 is hereby amended to read as follows:**

597.590 ~~[Any]~~ ***Except as otherwise provided in section 42 of this act, any*** person who knowingly violates any provision of NRS 597.500 to 597.570, inclusive, ***and sections 39 to 44, inclusive, of this act,*** is liable, in addition to any other penalty or remedy which may be provided by law, to a civil penalty of not more than $500 for each offense, which may be recovered by civil action on complaint of the Commissioner ***,*** ~~[of Consumer Affairs,]~~ the Director of the Department of Business and Industry or the district attorney.

~~[Sec. 37.]~~ ***Sec. 52.*** NRS 598.985 is hereby amended to read as follows:

598.985 1. The Division and the Department shall cooperate to enhance the protection of persons who authorize the repair of motor vehicles by a garage that is registered with the Department pursuant to the provisions of NRS 487.530 to 487.570, inclusive ***.*** ~~*[, and sections 5 to 19, inclusive, of this act.]*~~

2. The Commissioner of Consumer Affairs may ~~[Department shall]~~ provide to the Department ~~[Commissioner of Consumer Affairs]~~ a copy of any complaint filed with the Division ~~[Department]~~ that alleges a deceptive trade practice pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***or a violation of the provisions of NRS 597.480 to 597.590, inclusive, or sections 39 to 44, inclusive, of this act*** by a garage or garageman registered pursuant to the provisions of NRS 487.530 to 487.570, inclusive . ~~[, and sections 5 to 19, inclusive, of this act.]~~ If the Commissioner provides the Department with a copy of a complaint, the Department is ~~[The Department and the Commissioner are]~~ subject to the provisions of NRS 598.098 with respect to the complaint.

3. The Department ~~[Division]~~ may provide assistance to the Division ~~[Department]~~ in carrying out the provisions of NRS 598.990.

~~[Sec. 38.]~~ ***Sec. 53.*** NRS 598.990 is hereby amended to read as follows:

598.990 ~~[1.]~~ The Division ~~[Department]~~ shall :

1. Establish ~~[establish]~~ and maintain a toll-free telephone number for persons to report to the Division ~~[Department]~~ information concerning alleged violations of NRS ~~[487.035,]~~ 487.530 to 487.570, inclusive, 597.480 to 597.590, inclusive, ***and sections*** ~~[5 to 19,]~~ ***39 to 44, inclusive, of this act,*** and 598.0903 to 598.0999, inclusive.

2. Develop ~~[The Division shall develop]~~ a program to provide information to the public concerning:

(a) The duties imposed on a garageman by the provisions of NRS 487.035, 487.530 to 487.570, inclusive, and 597.480 to 597.590, inclusive ~~[,]~~ ***, and sections*** ~~[5 to 19,]~~ ***39 to 44, inclusive, of this act;***

(b) The rights and protections established for a person who uses the services of a garage ~~[,]~~ ***or body shop;***

(c) The repair of motor vehicles; and

(d) Deceptive trade practices relating to the repair of motor vehicles by a garage ~~[.]~~ ***or body shop.***

Sec. 54. **NRS 686A.300 is hereby amended to read as follows:**

686A.300 1. An insurer who issues insurance covering damage to a motor vehicle shall not delay making payment for any claim involving damage to a motor vehicle after receiving a statement of charges, pursuant to the provisions of ~~[NRS 487.035,]~~ ***section 43 of this act,*** from any garage or licensed body shop previously authorized by the insured to perform the repairs required by that claim.

2. A delay, within the meaning of this section, is failure to issue a check or draft, payable to the garage or licensed body shop or jointly to the insured and the garage or licensed body shop, within 30 days after the insurer's receipt of the statement of charges for repairs which have been satisfactorily completed.

3. If the damaged vehicle is subject to a security interest or the legal owner of the damaged vehicle is different from the registered owner, the vehicle must be repaired by a garage or licensed body shop unless:

(a) The insurer has declared the vehicle a total loss; or

(b) The total charge for the repair of the vehicle, as set forth in the statement of charges presented pursuant to ~~[NRS 487.035,]~~ ***section 43 of this act,*** is $300 or less.

4. Except as otherwise provided in subsection 3, nothing in this section shall be deemed to prohibit an insurer and insured from settling a claim involving damage to a motor vehicle without providing for the repair of the vehicle.

5. As used in this section, "licensed body shop" means a body shop for which a license has been issued pursuant to chapter 487 of NRS.

~~[Sec. 39.]~~ ***Sec. 55.*** NRS ~~[487.535, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.540, 597.550, 597.560, 597.570, 597.580 and 597.590 are]~~ **487.035 is** hereby repealed.

~~[Sec. 40.]~~ ***Sec. 56.*** ~~[A garageman shall display the sign required pursuant to section 7 of this act on or before:~~

~~1. October 1, 2007; or~~

~~2. The date that he submits to the Department of Motor Vehicles his application for the renewal of a certificate of registration pursuant to NRS 487.565, as amended by section 31 of this act,~~

~~whichever is later.]~~ **(Deleted by amendment.)**

~~[~~

~~LEADLINES OF REPEALED SECTIONS~~

~~487.535 "Division" defined.~~

~~597.480 Definitions.~~

~~597.490 Display of sign required; contents of sign; penalty.~~

~~597.500 Duties of garageman on acceptance of vehicle for repair.~~

~~597.510 Estimate of costs required for certain repairs.~~

~~597.520 Notice of additional charges over estimate required in certain cases.~~

~~597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.~~

~~597.540 Duties of person authorizing repairs upon receipt of notice of additional charges.~~

~~597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.~~

~~597.560 Records to be retained by garageman.~~

~~597.570 Compliance with NRS 487.035 also required; enforcement of liens and contracts.~~

~~597.580 Violations: Injunctive relief.~~

~~597.590 Violations: Civil penalties.]~~

TEXT OF REPEALED SECTION

487.035 Contents; presentation; penalty; liens.

1. If charges are made for the repair of a motor vehicle, the person making the charges shall present to the person requesting the repairs or the person entitled to possession of the motor vehicle a statement of the charges containing the following information:

(a) The name and signature of the person authorizing or requesting the repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for each part;

(d) A statement of the charges made for labor; and

(e) A description of all other charges.

2. Any person violating this section is guilty of a misdemeanor.

3. In the case of a motor vehicle registered in the State of Nevada, no lien for labor or materials provided under NRS 108.265 to 108.360, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, such notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

4. As used in this section, "motor vehicle" has the meaning ascribed to it in NRS 487.550.

Assemblyman Oceguera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 393.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 594, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 1071 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 37, which is attached to and hereby made a part of this report.

SUSAN GERHARDT	DENNIS NOLAN
KELVIN ATKINSON	JOYCE WOODHOUSE
JOHN CARPENTER	MAURICE WASHINGTON
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA37.

AN ACT relating to body shops; creating a Class A certification designation for body shops that meet certain criteria; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires body shops to submit an application to the Department of Motor Vehicles for a license to operate and file with the Department a bond in the amount of $10,000 before doing business in the State. (NRS 487.630, 487.640) Sections 3, 4, 6 and 7 of this bill create a Class A certification for a body shop that demonstrates compliance with certain criteria. Section 8 of this bill establishes the process for applying for and renewing a Class A certification. Section 11 of this bill provides for the suspension or revocation of a Class A certification under certain circumstances. (NRS 487.660)

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

Section 1. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***"Body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.***

Sec. 3. ***"Class A certificate" means a certificate issued to a licensed body shop that has been granted Class A certification status with the Department pursuant to section 6 of this act.***

Sec. 4. ***"Class A certification" means a designation granted to a licensed body shop by the Department indicating that the body shop meets the criteria set forth in section 6 of this act and any criteria established in regulations adopted pursuant to section 7 of this act.***

Sec. 5. ***"Garagekeepers' insurance" means insurance which protects an operator of a body shop against liability for damage to a vehicle in the care, custody or control of the body shop.***

Sec. 6. ***To be eligible for Class A certification, a licensed body shop must:***

1. Comply with local zoning laws and possess all required local, state and federal licenses and permits.

2. Possess garagekeepers' and workers' compensation insurance.

3. Provide employees with continuing education and training in subjects and for periods of time as prescribed by regulation.

4. Have the ability to:

(a) Obtain proper specifications for each vehicle being repaired;

(b) Make three dimensional measurements that are verified by a computer of each vehicle being repaired; and

(c) Hoist a vehicle for inspection.

~~[4.]~~ ***5. Perform a wide range of services for vehicles being repaired, including, without limitation:***

(a) Alignment of the wheels of a vehicle that is verified by a computer;

(b) Stabilization of a vehicle through the use of a four-point anchoring system;

(c) Simultaneous adjustment of the exterior and undercarriage of a vehicle;

(d) Removal and reinstallation of a frame, suspension, engine or a drivetrain component;

(e) Painting the exterior of a vehicle with a system for applying paint that provides a finish similar to the finish applied by the manufacturer;

(f) Inspection of airbags and other occupant restraint devices to the specifications of the manufacturer; and

(g) Welding, by a certified technician, with a gas metal arc welder or an inverter welder, as appropriate.

~~*[5.]*~~ ***6. Adhere to current federal, state and local safety requirements by:***

(a) Performing repairs on an air-conditioning system using equipment approved by the United States Environmental Protection Agency;

(b) Performing repairs with emission-reducing equipment, as prescribed by regulation;

(c) Performing repairs with equipment that meets all safety requirements as prescribed by regulation; and

(d) Disposing of hazardous waste as prescribed by regulation.

~~*[6.]*~~ ***7. Ensure customer satisfaction by providing to each customer:***

(a) A computer-generated estimate of repairs; and

(b) A written, limited lifetime warranty that is valid against workmanship defects.

~~*[7.]*~~ ***8. Have a system for documenting and maintaining customer complaints and responses to service.***

Sec. 7. ***1. The Department shall adopt regulations establishing the requirements for continuing education and training required by subsection 3 of section 6 of this act.***

2. The Department may adopt such regulations as it deems necessary to carry out the provisions of sections 2 to 8, inclusive, of this act.

Sec. 8. ***1. An application for a Class A certification or for the renewal of such a certification must be filed with the Department upon forms supplied by the Department. The application must be accompanied by such proof as the Department requires to demonstrate that the applicant is in compliance with all criteria set forth in section 6 of this act and any regulations adopted pursuant thereto.***

2. Before a Class A certificate is issued to a licensed body shop, the Department must inspect the body shop to ensure that the body shop meets or exceeds the requirements set forth in section 6 of this act and any regulations adopted pursuant thereto.

3. The Department shall notify a licensed body shop at least 72 hours before an inspection is performed pursuant to subsection 2.

4. The Department shall charge an application fee of $300 for the issuance or renewal of a Class A certificate which must be submitted with the application. Fees collected by the Department pursuant to this

subsection must be deposited with the State Treasurer to the credit of the Account for Regulation of Salvage Pools, Automobile Wreckers, Body Shops and Garages.

5. Upon receipt of the application and the required fee, and when satisfied that the applicant meets or exceeds the requirements set forth in section 6 of this act and any regulations adopted pursuant thereto, the Department must issue to the licensed body shop a Class A certificate or renew such certification. The certificate must contain the name and the address of the licensed body shop and the name of the operator of the licensed body shop.

6. A Class A certificate expires on April 30 of each year.

Sec. 9. NRS 487.600 is hereby amended to read as follows:

487.600 As used in NRS ~~[487.610]~~ ***487.600*** to 487.690, inclusive, ~~["body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.]~~ ***and sections 2 to 8, inclusive, of this act, the words and terms defined in sections 2 to 5, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 10. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or, after notice and hearing, may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS 487.035, ~~[487.610]~~ ***487.600*** to 487.690, inclusive, ***and sections 2 to 8, inclusive, of this act,*** or 597.480 to 597.590, inclusive.

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilt by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS ~~[487.610]~~ ***487.600*** to 487.690, inclusive, ***and sections 2 to 8, inclusive, of this act,*** or to determine the suitability of an applicant or a licensee for such licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 11. NRS 487.660 is hereby amended to read as follows:

487.660 ***1.*** If the Director finds that the action is necessary in the public interest, upon notice to the licensee, he may ~~[temporarily]~~ ***:***

(a) Temporarily suspend or refuse to renew the license to operate a body shop for not more than 30 days.

(b) Temporarily suspend or refuse to renew a Class A certificate of a licensed body shop for not more than 30 days.

2. The Department shall conduct a hearing and issue a final decision on the matter within 30 days after it sends notice ~~[to the licensee]~~ of the temporary suspension ~~[.]~~ ***of a license or a Class A certificate, or both.***

3. The Department shall adopt regulations:

(a) Prescribing the circumstances under which the Department may suspend or refuse to renew a Class A certificate; and

(b) Providing an appeals process for an operator of a licensed body shop whose Class A certificate has been suspended or has not been renewed.

4. A Class A certificate must be automatically revoked by the Department if the license to operate the body shop is suspended or revoked pursuant to NRS 487.650.

Sec. 12. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of NRS ~~[487.610]~~ ***487.600*** to 487.680, inclusive, ***and sections 2 to 8, inclusive, of this act*** is guilty of a misdemeanor.

Assemblywoman Gerhardt moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 594.

Remarks by Assemblywoman Gerhardt.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 127, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 792 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 28, which is attached to and hereby made a part of this report.

BERNIE ANDERSON	MAURICE WASHINGTON
DEBBIE SMITH	MIKE MCGINNESS
BOB BEERS	VALERIE WIENER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA28.

SUMMARY—Revises provisions relating to ~~[interception of wire communications.]~~ **the collection of debts by collection agencies.** (BDR 54-1049)

AN ACT relating to ~~[communications;]~~ **collection agencies;** clarifying ~~[that a person may record certain telephone calls made by]~~ **when** collection agents and collection agencies ~~[after providing notice that the call is being recorded and making a statement to that effect on the recording;]~~ **may record telephone calls; providing that violations of the provisions of the federal Fair Debt Collection Practices Act are deemed violations of certain provisions governing collection agencies; requiring a collection agency which collects a debt on behalf of a hospital to provide certain notice to a debtor; specifying the manner in which a collection agency must verify a debt; making various other changes concerning collection agencies and collection agents;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally requires two-party consent before a person may record a telephone conversation. (NRS 200.620) The Nevada Supreme Court has interpreted existing law to prohibit a person from recording his own telephone conversations unless the other party to the conversation gives prior consent to the recording. (***Lane v. Allstate Ins. Co.***, 114 Nev. 1176 (1998)) Existing law also prohibits the surreptitious listening, monitoring or recording of private conversations engaged in by other persons. (NRS 200.650)

Section 4 of this bill provides that, after providing notice to the collection agency or collection agent that the telephone call is being recorded and making a statement to that effect on the recording, a person may record any telephone call concerning a debt which is owed or asserted to be owed by the person if the telephone call is initiated by a collection agency or collection agent and received by the person who owes or is alleged to owe the debt.

Section 5 of this bill provides that a violation of any provision of the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq., or any regulation adopted pursuant thereto, shall be deemed to be a violation of chapter 649 of NRS governing collection agencies.

Section 6 of this bill provides that, to verify a debt, a collection agency is required to obtain certain documents from the creditor and mail those

documents to the debtor. Section 6 also requires a collection agency that is collecting a debt on behalf of a hospital to provide certain information to a debtor not later than 5 days after the initial communication with the debtor in connection with the collection of the debt.

Existing law exempts certain persons from obtaining a collection agency license in Nevada if certain conditions are met. (NRS 649.075) Section 7 of this bill removes that exemption and requires all such persons to either register as a foreign collection agency or obtain a license.

Existing law requires each applicant for a license as a collection agency or collection agent to submit proof of certain information to the Commissioner of Financial Institutions, including, without limitation, proof that the applicant will maintain one or more offices in this State for the transaction of the business of his collection agency. (NRS 649.085) Section 8 of this bill allows the applicant to satisfy this requirement by submitting proof that the applicant will maintain one or more such offices in another state.

Section 9 of this bill removes the requirement that a person must hold a license in another state in order to be registered as a foreign collection agency in Nevada. Section 9 also limits the activities of a registered foreign collection agency to collecting from residents of this State on behalf of residents of another state. (NRS 649.171)

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 3.5. **Chapter 649 of NRS is hereby amended by adding thereto the provisions set forth as sections 4, 5 and 6 of this act.**

Sec. 4. ~~[Chapter 649 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. After providing notice that the telephone conversation will be recorded, a person may record any telephone call that:

(a) Concerns a claim which is owed or asserted to be owed by the person;

(b) Is made by a collection agency or collection agent; and

(c) Is received by the person.

2. A person who records a telephone call pursuant to this section is required to make a statement immediately after the recording begins that the telephone call is being recorded.

3. As used in this section, "record" means the acquisition of the contents of a wire communication through the use of a recording device.

Sec. 5. ***A violation of any provision of the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1682 et seq., or any regulation adopted pursuant thereto, shall be deemed to be a violation of this chapter.***

Sec. 6. ***1. To verify a debt, a collection agency shall:***

(a) Obtain or attempt to obtain from the creditor any document that is not in the possession of the collection agency and is reasonably responsive to the dispute of the debtor, if any; and

(b) If such a document is obtained, mail the document to the debtor.

2. When collecting a debt on behalf of a hospital, within 5 days after the initial communication with the debtor in connection with the collection of

the debt, a collection agency shall, unless the following information is included in the initial communication, send a written notice to the debtor that includes a statement indicating that:

(a) If the debtor pays or agrees to pay the debt or any portion of the debt, the payment or agreement to pay may be construed as:

(1) An acknowledgement of the debt by the debtor; and

(2) A waiver by the debtor of any applicable statute of limitations set forth in NRS 11.190 that otherwise precludes the collection of the debt; and

(b) If the debtor does not understand or has questions concerning his legal rights or obligations relating to the debt, the debtor should seek legal advice.

3. As used in this section, "hospital" has the meaning ascribed to it in NRS 449.012.

Sec. 7. **NRS 649.075 is hereby amended to read as follows:**

649.075 1. Except as otherwise provided in this section, a person shall not conduct within this State a collection agency or engage within this State in the business of collecting claims for others, or of soliciting the right to collect or receive payment for another of any claim, or advertise, or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim, or seek to make collection or obtain payment of any claim on behalf of another without having first applied for and obtained a license from the Commissioner.

2. ~~[A person is not required to obtain a license if:~~

~~(a) The collection agency he works for is located outside of this State;~~

~~(b) His activities in this State are limited to the collection of claims from residents of this State on behalf of residents of another state; and~~

~~(c) His contact with persons in this State is limited to interstate communications by telephone, mail or facsimile.~~

~~3.]~~ A person is not required to obtain a license if the person holds a certificate of registration as a foreign collection agency issued by the Commissioner pursuant to NRS 649.171.

Sec. 8. **NRS 649.085 is hereby amended to read as follows:**

649.085 Every individual applicant, every officer and director of a corporate applicant, and every member of a firm or partnership applicant for

a license as a collection agency or collection agent must submit proof satisfactory to the Commissioner that he:

1. Is a citizen of the United States or lawfully entitled to remain and work in the United States.

2. Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business of a collection agency in a manner which protects the interests of the general public.

3. Has not had a collection agency license suspended or revoked within the 10 years immediately preceding the date of the application.

4. Has not been convicted of, or entered a plea of nolo contendere to:

(a) A felony relating to the practice of collection agencies or collection agents; or

(b) Any crime involving fraud, misrepresentation or moral turpitude.

5. Has not made a false statement of material fact on his application.

6. Will maintain one or more offices in this State ***or one or more offices in another state*** for the transaction of the business of his collection agency.

7. Has established a plan to ensure that his collection agency will provide the services of a collection agency adequately and efficiently.

Sec. 9. **NRS 649.171 is hereby amended to read as follows:**

649.171 1. A person who is not licensed in this State as a collection agency may apply to the Commissioner for a certificate of registration as a foreign collection agency.

2. To be issued and to hold a certificate of registration as a foreign collection agency, a person:

(a) ~~[Must hold a license or permit to do business as a collection agency in another state;~~

~~(b)]~~ Must meet the qualifications to do business as a collection agency in this State;

~~[(c)]~~ ***(b)*** Must not have any employees or agents present in this State who engage in the collection of claims and must not maintain any business locations in this State as a collection agency;

~~[(d)]~~ ***(c)*** Must submit proof to the Commissioner, upon application and upon each annual renewal of the ~~[certification]~~ ***certificate*** of registration, that the person and his employees and agents will not, in this State:

(1) Engage in the business of soliciting the right to collect or receive payment for another of any claim; ~~[or]~~

(2) ***Respond to a bid, proposal or invitation for the right to collect or receive payment for another of any claim, unless the bid, proposal or invitation is for the collection of claims owed by residents of another state; or***

(3) Advertise or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim;

~~[(e)]~~ ***(d)*** When collecting claims against debtors who are present in this State, must:

(1) Limit his activities and those of his employees and agents to interstate communications by telephone, mail or facsimile; ~~[and]~~

(2) ***Limit his activities and those of his employees and agents to the collection of claims from residents of this State on behalf of residents of another state; and***

(3) Comply with the requirements of NRS 649.305 to 649.375, inclusive, ***and section 5 of this act*** with regard to his activities and those of his employees and agents;

~~[(f)]~~ ***(e)*** Must pay:

(1) A fee to apply for a certificate of registration of not less than $200 ~~[and not more than $600,]~~ prorated on the basis of the registration year as determined by the Commissioner; and

(2) An annual renewal fee of not more than $200;

~~[(g)]~~ ***(f)*** Must deposit and maintain a bond or an appropriate substitute for the bond in the same manner as an applicant or licensee pursuant to NRS 649.105, 649.115 and 649.119;

~~[(h)]~~ ***(g)*** Must maintain his accounts, books and records in accordance with generally accepted accounting principles and in accordance with the requirements of subsection 1 of NRS 649.335; and

~~[(i)]~~ ***(h)*** Must pay any fees related to any examination of his accounts, books and records conducted by the Commissioner pursuant to subsection 3.

3. The Commissioner may conduct an annual examination and any additional examinations pursuant to NRS 649.335 of the accounts, books and records of each person who holds a certificate of registration as a foreign collection agency.

4. The Commissioner may take disciplinary action pursuant to NRS 649.385, 649.390 and 649.395 against a person who holds a certificate of registration as a foreign collection agency for any act or omission that would be grounds for taking such disciplinary action under those sections.

5. The Commissioner shall adopt:

(a) Regulations establishing the amount of the fees required pursuant to this section; and

(b) Any other regulations as may be necessary to carry out the provisions of this section.

Sec. 10. **1. This section and sections 3.5 to 6, inclusive, 8 and 9 of this act become effective upon passage and approval.**

2. Section 7 of this act becomes effective on January 1, 2008.

Assemblyman Anderson moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 127.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 178, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 1013 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 38, which is attached to and hereby made a part of this report.

MARCUS CONKLIN	WARREN HARDY
DAVID BOBZIEN	MAGGIE CARLTON
HEIDI GANSERT	RANDOLPH TOWNSEND
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA38.

AN ACT relating to energy; requiring certain lights sold in this State to meet certain standards of energy efficiency; revising the authority of the Director of the Office of Energy; revising the membership of the Task Force for Renewable Energy and Energy Conservation; revising various provisions relating to net metering; **revising provisions governing the exemption of electric generating plants;** providing for the establishment of a pilot program to collect and separate recyclable material that may be used as renewable energy or converted into renewable fuel; providing for the establishment of the Wind Energy Systems Demonstration Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits the sale in this State of certain general purpose lights that do not produce a certain amount of lumens per watt of electricity consumed, and requires the Director of the Office of Energy to adopt regulations establishing a minimum standard of energy efficiency for such lights.

Existing law provides for the membership of the Task Force for Renewable Energy and Energy Conservation. (NRS 701.350) Sections 1.35 and 29.7 of this bill revise the membership of the Task Force.

Existing law authorizes a customer of an electric utility to use a net metering system on the customer's premises to generate electricity to offset part or all of the customer's requirements for electricity. The net metering system must use renewable energy as its primary source of energy to generate electricity, and the system is allowed to have a generating capacity of not more than 150 kilowatts. (NRS 704.766-704.775)

Section 1.4 of this bill provides that one of the purposes and policies of the Legislature in enacting the net metering statutes is to streamline the process for customers of a utility to apply for and install net metering systems.

Section 1.5 of this bill provides for a general increase in the permissible capacity of net metering systems and allows a customer-generator to use a net metering system of not more than 1 megawatt. However, section 1.5 also places specific limitations on the capacity of net metering systems under certain circumstances.

Section 2 of this bill requires the Public Utilities Commission of Nevada to adopt regulations regarding a net metering tariff and a standard net metering contract. Section 3 of this bill changes the method for calculating the value of the electricity generated by certain net metering systems.

Existing law provides for the establishment of programs for collecting and separating recyclable material. (Chapter 444A of NRS) Section 4.5 of this bill provides that in a county whose population is 400,000 or more (currently Clark County), the board of county commissioners shall, in conjunction with each licensed hauler of garbage and refuse, establish a pilot program for collecting and separating recyclable material that may be used as a source of renewable energy or converted into renewable fuel.

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections 5-29 of this bill enact the Wind Energy Systems Demonstration Program Act, a similar demonstration program for wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act expires by limitation on ~~[June 30, 2011.]~~ **certain specified dates.**

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy efficiency established by the Director pursuant to subsection 3 for lumens per watt of electricity consumed.

3. The Director shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:

(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy efficiency established by the Director must exceed 25 lumens per watt of electricity consumed.

(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.

4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting

necessary to provide illumination for persons with special needs," as defined by the Director by regulation.

Sec. 1.3. NRS 701.170 is hereby amended to read as follows:

701.170 The Director may:

1. Administer any gifts or grants which the Office of Energy is authorized to accept for the purposes of this chapter.

2. Expend money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.

5. Assist developers of renewable energy generation projects in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.

6. Adopt any regulations that the Director determines are necessary to carry out the duties of the Office of Energy pursuant to this chapter.

7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Office of Energy. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Office of Energy.

8. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Office of Energy.

Sec. 1.35. NRS 701.350 is hereby amended to read as follows:

701.350 1. The Task Force for Renewable Energy and Energy Conservation is hereby created. The Task Force consists of ~~[11]~~ ***15*** members who are appointed as follows:

(a) Two members appointed by the Majority Leader of the Senate, one of whom represents the interests of the renewable energy industry in this State with respect to biomass and the other of whom represents the interests of the mining industry in this State.

(b) Two members appointed by the Speaker of the Assembly, one of whom represents the interests of the renewable energy industry in this State with respect to geothermal energy and the other of whom represents the interests of a nonprofit organization dedicated to the protection of the environment or to the conservation of energy or the efficient use of energy.

(c) ~~[One member]~~ ***Two members*** appointed by the Minority Leader of the Senate ~~[to represent]~~ ***, one of whom represents the interests of the natural gas industry in this State and one or whom represents*** the interests of the renewable energy industry in this State with respect to solar energy.

(d) ~~[One member]~~ ***Two members*** appointed by the Minority Leader of the Assembly to represent the interests of the ~~[public]~~ ***electric*** utilities in this State.

(e) Two members appointed by the Governor, one of whom represents the interests of the renewable energy industry in this State with respect to wind and the other of whom represents the interests of the gaming industry in this State.

(f) One member appointed by the Consumer's Advocate to represent the interests of the consumers in this State.

(g) One member appointed by the governing board of the State of Nevada AFL-CIO or, if the State of Nevada AFL-CIO ceases to exist, by its successor organization or, if there is no successor organization, by the Governor.

(h) One member appointed by the Governor to represent the interests of energy conservation and the efficient use of energy in this State.

(i) One member appointed by the ~~*[Desert Research Institute or its successor organization or, if there is no successor organization, by the Governor.]*~~ ***Chancellor of the Nevada System of Higher Education to represent the interests of education and academic research in this State.***

(j) One member who is an appointed ~~*[by]*~~ ***member of the Commission on Economic Development*** ~~*[.*~~

~~*(k) Two members appointed jointly by the United States Senators of this State.]*~~ ***and who has been selected by that Commission to serve as a member of the Task Force.***

2. A member of the Task Force:

(a) Must be a citizen of the United States and a resident of this State.

(b) Must have training, education, experience or knowledge concerning:

(1) The development or use of renewable energy;

(2) Financing, planning or constructing renewable energy generation projects;

(3) Measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(4) Weatherization;

(5) Building and energy codes and standards;

(6) Grants or incentives concerning energy;

(7) Public education or community relations; or

(8) Any other matter within the duties of the Task Force.

(c) Must not be an officer or employee of the Legislative or Judicial Department of State Government.

3. After the initial terms, the term of each member of the Task Force is 3 years ~~[.]~~ ***, except that the member of the Task Force who is also an***

appointed member of the Commission on Economic Development serves at the pleasure of that Commission. A vacancy on the Task Force must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may be reappointed to the Task Force.

4. A member of the Task Force who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Task Force and perform any work that is necessary to carry out the duties of the Task Force in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Task Force to:

(a) Make up the time he is absent from work to carry out his duties as a member of the Task Force; or

(b) Take annual leave or compensatory time for the absence.

Sec. 1.4. NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, to:

1. Encourage private investment in renewable energy resources;
2. Stimulate the economic growth of this State; ~~[and]~~
3. Enhance the continued diversification of the energy resources used in this State ~~[.]~~***; and***
4. Streamline the process for customers of a utility to apply for and install net metering systems.

Sec. 1.5. NRS 704.771 is hereby amended to read as follows:

704.771 ***1.*** "Net metering system" means a facility or energy system for the generation of electricity that:

~~[1.]~~ ***(a)*** Uses renewable energy as its primary source of energy to generate electricity;

~~[2.]~~ ***(b)*** Has a generating capacity of not more than ~~[150 kilowatts;~~
~~3.]~~ ***1 megawatt;***

(c) Is located on the customer-generator's premises;

~~[4.]~~ ***(d)*** Operates in parallel with the utility's transmission and distribution facilities; and

~~[5.]~~ ***(e)*** Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

Sec. 2. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the

cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~[30]~~ ***100*** kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~[30]~~ ***100*** kilowatts, the utility ~~[may:~~

~~(a) Require]~~ ***:***

(a) May require the customer-generator to install at its own cost ~~[an]~~ ***:***

(1) An energy meter that is capable of measuring generation output and customer load ~~[.]~~ ***; and***

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) ~~[Charge]~~ ***Except as otherwise provided in paragraph (c), may charge*** the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

➥ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➥ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 3. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. ~~[If a customer-generator's net metering system has a capacity of not more than 30 kilowatts, the]~~ ***The*** net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for ***the*** electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt - hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The ***value of the*** excess electricity ~~[which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~3. If a customer-generator's net metering system has a capacity of more than 30 kilowatts, the net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall:~~

~~(1) Measure, in kilowatt-hours, the amount of electricity supplied by the utility to the customer-generator during the billing period and calculate its value using the tariff that would be applicable if the customer-generator did not use a net metering system; and~~

~~(2) Measure, in kilowatt-hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.~~

~~(b) If the value of electricity supplied by the utility exceeds the value of the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net value of the electricity supplied by the utility.~~

~~(c) If the value of the electricity generated by the customer-generator which is fed back to the utility exceeds the value of the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for the value of the electricity provided to the other during the billing period.~~

~~(2) The value of the excess electricity:~~

~~(I) Must not be shown as a credit on the customer-generator's bill for that billing period but must be reflected as a credit that is carried forward to offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt-hours. If the credit is reflected as excess electricity and the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer-generator ceases to be a customer of the utility at the premises served by the net metering system or the customer-generator transfers the net metering system to another person.~~

~~(II) Does not reduce any other fee or charge imposed by the utility.~~

~~(3) The excess electricity which is fed back to the utility~~] ***must not be used to reduce any other fee or charge imposed by the utility.***

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than ~~[150 kilowatts,]~~ ~~*[1 megawatt,]*~~ ***35 megawatts,*** including, without limitation, a net metering system, as defined in NRS 704.771.

➥ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 4.5. Chapter 444A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners in a county whose population is 400,000 or more shall, in conjunction with each licensed hauler of garbage and refuse operating in the county, establish a pilot program for collecting

and separating recyclable material that has the potential to be used as a source of renewable energy or converted into renewable fuel.

2. The pilot program must include, without limitation:

(a) An exploration of technologies and processes that are able to use recyclable material as a source of renewable energy or convert recyclable material into renewable fuel.

(b) The creation and maintenance of adequate records to allow an assessment of the feasibility of establishing a statewide recycling standard.

3. The pilot program must not conflict with the standards relating to recyclable material adopted by the State Environmental Commission pursuant to NRS 444A.020.

4. As used in this section:

(a) "Licensed hauler of garbage and refuse" means a person who holds the licenses and permits required to operate a business of collecting and disposing of garbage and refuse. The term includes a person who is licensed to operate a business of collecting recyclable material.

(b) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

Sec. 5. Sections 5 to 29, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 6. As used in sections 5 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 21, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 7. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 8. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 9. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 22 of this act.

Sec. 10. "Commission" means the Public Utilities Commission of Nevada.

Sec. 11. ~~["Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.]~~ **(Deleted by amendment.)**

Sec. 12. "Institution of higher education" means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 13. "Participant" means a person who has been selected by the ~~[Committee]~~ **Task Force** pursuant to section 26 of this act to participate in the Wind Demonstration Program.

Sec. 14. "Person" includes, without limitation, a governmental entity.

Sec. 15. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 16. ”Public property” means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 17. ”School property” means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 18. ”Small business” means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 18.5. **”Task Force” means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.**

Sec. 19. ”Utility” means a public utility that supplies electricity in this State.

Sec. 20. ”Wind Demonstration Program” or “Program” means the Wind Energy Systems Demonstration Program created by section 22 of this act.

Sec. 21. ”Wind energy system” means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 22. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 23 of this act;

(b) Submit an application to a utility and be selected by the ~~[Committee]~~ **Task Force** for inclusion in the Program pursuant to sections 25 and 26 of this act;

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors’ Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public

demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 23. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 24. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 25 of this act.

2. A utility may recover its reasonable and prudent costs, including, without limitation, **customer** incentives **,** that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 25. 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the ~~[Committee]~~ **Task Force** the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The ~~[Committee]~~ **Task Force** shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 26 of this act, the ~~[Committee]~~ **Task Force** may approve, from among the applications recommended by each utility, wind energy systems totaling:

(a) For the program year beginning July 1, 2008:

(1) 500 kilowatts of capacity for school property;

(2) 500 kilowatts of capacity for other public property;

(3) 700 kilowatts of capacity for private residential property and small business property; and

(4) 700 kilowatts of capacity for agricultural property.

(b) For the program year beginning July 1, 2009:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 26. 1. Based on the applications submitted by each utility for a program year, the ~~[Committee]~~ **Task Force** shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the ~~[Committee]~~ **Task Force** selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the ~~[Committee]~~ **Task Force** on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the ~~[Committee]~~ **Task Force** may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 27. 1. Except as otherwise provided in this section, if the ~~[Committee]~~ **Task Force** determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the ~~[Committee]~~ **Task Force** shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The ~~[Committee]~~ **Task Force** may, without notice or an opportunity for a hearing, withdraw from the Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.

(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.

Sec. 28. 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 29. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775,

inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 29.5. The Director of the Office of Energy shall adopt the regulations required by section 1 of this act on or before October 1, 2011.

Sec. 29.7. 1. The appointment of the additional members to the Task Force for Renewable Energy and Energy Conservation required by NRS 701.350, as amended by section 1.35 of this act, must be made as soon as practicable on or after passage and approval of this act, except that none of the additional members may begin serving a term sooner than July 1, 2007.

2. The initial terms of the additional members appointed pursuant to paragraphs ~~[(i) and (j)]~~ **(c) and (d)** of subsection 1 of NRS 701.350, as amended by section 1.35 of this act, expire on June 30, 2010.

3. The initial term of the additional member appointed pursuant to paragraph ~~[(k)]~~ **(i)** of subsection 1 of NRS 701.350, as amended by section 1.35 of this act, expires on June 30, 2009.

Sec. 30. 1. This section and sections 1.4 to 4, inclusive, of this act become effective upon passage and approval.

2. Sections 1.35 and 29.7 of this act become effective:

(a) Upon passage and approval for the purposes of appointing additional members to the Task Force for Renewable Energy and Energy Conservation; and

(b) On July 1, 2007, for all other purposes.

3. Sections 1, 1.3 ~~[,]~~ **and** 4.5 ~~[, 5]~~ to ~~[29,]~~ **29.5,** inclusive, ~~[and 29.5]~~ of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) On October 1, 2007, for all other purposes.

4. Sections 5 to 29, inclusive, of this act expire by limitation on June 30, 2011 ~~[.]~~ **, except that if a substantially similar Wind Energy Systems Demonstration Program Act is enacted into law and becomes effective on or before October 1, 2007, sections 5 to 29, inclusive, of this act expire by limitation on the date on which the substantially similar Wind Energy Systems Demonstration Program Act becomes effective.**

Assemblyman Conklin moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 178.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 542.

The following Senate amendment was read:

Amendment No. 652.

AN ACT making supplemental appropriations to the Department of Health and Human Services for payment of stale Medicaid claims; and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services the sum of $439,365 for payment of a stale claim for Medicaid ~~[repayment]~~ **overpayment** at the Desert Regional Center. This appropriation is supplemental to that made by section 19 of chapter 327, Statutes of Nevada 2003, at page 1834.

2. There is hereby appropriated from the State General Fund to the Department of Health and Human Services the sum of $95,229 for payment of a stale claim for Medicaid overpayment at the Rural Regional Center. This appropriation is supplemental to that made by section 19 of chapter 327, Statutes of Nevada 2003, at page 1834.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 542.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 543.

The following Senate amendment was read:

Amendment No. 681.

AN ACT making supplemental appropriations to the Department of Motor Vehicles for various costs; and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby appropriated from the State Highway Fund to the Director's Office of the Department of Motor Vehicles the sum of ~~[$615,116]~~ **$655,116** for an anticipated shortfall in operating costs for kiosks throughout the State. This appropriation is supplemental to that made by section 32 of chapter 434, Statutes of Nevada 2005, at page 1943.

2. There is hereby appropriated from the State Highway Fund to the Department of Motor Vehicles, Automation Division, the sum of $374,024 for unanticipated Department of Information Technology charges. This appropriation is supplemental to that made by section 32 of chapter 434, Statutes of Nevada 2005, at page 1943.

3. There is hereby appropriated from the State Highway Fund to the Hearings Office of the Department of Motor Vehicles the sum of $5,378 for a shortfall in operating costs due to an increased hearing caseload. This

appropriation is supplemental to that made by section 32 of chapter 434, Statutes of Nevada 2005, at page 1943.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 543.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 586.

The following Senate amendment was read:

Amendment No. 1126.

SUMMARY—Provides for the enforcement of ~~[certain provisions governing the regulation and taxation of]~~ **taxes and restrictions on the sale and use of cigarettes and other** tobacco products **.** ~~[other than cigarettes.]~~ (BDR 32-515)

AN ACT relating to tobacco; revising certain provisions for the enforcement of taxes and restrictions on the sale and use of cigarettes to provide for the enforcement of taxes and restrictions on the sale and use of other tobacco products; **requiring tobacco retailers to display certain notices concerning the sale of tobacco to minors; prohibiting the retail sale of cigarettes through the use of certain self-service displays; providing penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the imposition, administration and enforcement of taxes on cigarettes. (NRS 370.001-370.430) Existing law provides separately for the imposition and administration of a tax on products made from tobacco, other than cigarettes. (NRS 370.440-370.503)

Section 3 of this bill provides a common definition for such "other tobacco product." Sections 2, 4, 9 and 25-28 of this bill assist in the enforcement of the tax on any "other tobacco product" by providing for the treatment of and imposition of criminal penalties regarding contraband "other tobacco products" in the same manner as contraband cigarettes.

Section 41 of this bill requires a tobacco retailer to post a notice that the sale of tobacco to minors is prohibited by law and that the retailer may ask for proof of age to comply with this prohibition, and provides for the imposition of a fine for noncompliance with this requirement. Section 41 also prohibits the retail sale of cigarettes through the use of certain self-service displays and provides for the imposition of a fine for noncompliance with this prohibition.

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

Section 1. Chapter 370 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***"Other counterfeit tobacco product" means any other tobacco product or tobacco product package bearing a false manufacturing label.***

Sec. 3. ***"Other tobacco product" means any tobacco of any description or any product made from tobacco, other than cigarettes.***

Sec. 4. ***"Tobacco product package" means the individual pack, box or other container that contains any other tobacco product. The term does not include a container that itself contains other containers.***

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 370.001 is hereby amended to read as follows:

370.001 As used in NRS 370.001 to 370.430, inclusive, ***and sections 2, 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 370.005 to 370.055, inclusive, ***and sections 2, 3 and 4 of this act*** have the meanings ascribed to them in those sections.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 370.025 is hereby amended to read as follows:

370.025 "Contraband ~~[cigarettes"]~~ ***tobacco products"*** means any:

1. Counterfeit cigarettes; ~~[or]~~
2. ***Other counterfeit tobacco product; or***
3. Cigarettes ~~[:]~~ ***or other tobacco product:***

(a) Exported from or imported into this State, or mailed, shipped, delivered, sold, exchanged, transported, distributed or held for distribution within the borders of this State by any person in violation of any of the provisions of this chapter; or

(b) In any way held in the possession or constructive possession of any person not authorized under this chapter to possess or constructively possess the cigarettes ~~[.]~~ ***or other tobacco product.***

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. NRS 370.405 is hereby amended to read as follows:

370.405 1. It is unlawful for any person knowingly to sell or to possess for the purpose of sale any ~~[counterfeit cigarettes.]~~ ***contraband tobacco***

products. The presence of ~~[counterfeit cigarettes in a cigarette]~~ ***any contraband tobacco products in a*** vending machine is prima facie evidence of the purpose to sell those ~~[cigarettes.]~~ ***products.***

2. A person who violates any provision of subsection 1 is guilty of:

(a) For the first offense involving ~~[less than 400 cigarettes,]~~ ***contraband tobacco products having a value of $25 or more but less than $250,*** a misdemeanor.

(b) For each subsequent offense involving ~~[less than 400 cigarettes,]~~ ***contraband tobacco products having a value of $25 or more but less than $250,*** a category D felony and shall be punished as provided in NRS 193.130.

(c) For the first offense involving ~~[400 or more cigarettes,]~~ ***contraband tobacco products having a value of $250 or more,*** a gross misdemeanor.

(d) For each subsequent offense involving ~~[400 or more cigarettes,]~~ ***contraband tobacco products having a value of $250 or more,*** a category C felony and shall be punished as provided in NRS 193.130.

Sec. 26. NRS 370.410 is hereby amended to read as follows:

370.410 Except as otherwise provided in NRS 370.405, any person exporting, importing, possessing or constructively possessing contraband ~~[cigarettes]~~ ***tobacco products*** is guilty of a gross misdemeanor.

Sec. 27. NRS 370.413 is hereby amended to read as follows:

370.413 In order to obtain evidence of any violation of this chapter, the Department, its agents, and all peace officers and revenue-collecting officers of this State may enter and inspect, without a warrant during normal business hours and with a warrant at any other time:

1. The facilities and records of any manufacturer, wholesale dealer or retail dealer; and

2. Any other place where they may have reason to believe contraband ~~[cigarettes]~~ ***tobacco products*** are stored, warehoused or kept for sale.

Sec. 28. NRS 370.415 is hereby amended to read as follows:

370.415 1. The Department, its agents, sheriffs within their respective counties and all other peace officers of the State of Nevada shall seize any counterfeit stamps and any contraband ~~[cigarettes]~~ ***tobacco products*** and machinery used to manufacture contraband ~~[cigarettes,]~~ ***tobacco products,*** found or located in the State of Nevada.

2. A sheriff or other peace officer who seizes stamps, ~~[cigarettes]~~ ***contraband tobacco products*** or machinery pursuant to this section shall provide written notification of the seizure to the Department not later than 5 working days after the seizure. The notification must include the reason for the seizure.

3. After consultation with the Department, the sheriff or other peace officer shall transmit the ~~[cigarettes]~~ ***contraband tobacco products*** to the Department if:

(a) The ***contraband tobacco products consist of*** cigarettes ~~[, except]~~ ***and:***

(1) Except for revenue stamps or metered machine impressions being properly affixed as required by this chapter, ***the cigarettes*** comply with all state and federal statutes and regulations; and

~~[(b)]~~ ***(2)*** The Department approves the transmission of the cigarettes ~~[.]~~ ***; or***

(b) The contraband tobacco products consist of any other tobacco products and the Department approves the transmission of the other tobacco products.

4. Upon ***the*** receipt of ~~[the cigarettes,]~~ ***any:***

(a) Cigarettes pursuant to subsection 3, the Department shall dispose of the cigarettes as provided in subsection 4 of NRS 370.270 ~~[.]~~ ***; or***

(b) Other tobacco products pursuant to subsection 3, the Department shall:

(1) Sell the other tobacco products to the highest bidder among the licensed wholesale dealers in this State after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the Department's records; or

(2) If there is no bidder, or in the opinion of the Department the quantity of the other tobacco products is insufficient, or for any other reason such disposition would be impractical, destroy or dispose of the other tobacco products as the Department may see fit.

➥ The proceeds of all sales pursuant to this paragraph must be classed as revenues derived under the provisions of NRS 370.440 to 370.503, inclusive.

5. The sheriff or other peace officer who seizes any stamps, ~~[cigarettes]~~ ***contraband tobacco products*** or machinery pursuant to this section shall:

(a) Destroy the stamps and machinery; and

(b) If he does not transmit the ~~[cigarettes]~~ ***contraband tobacco products*** to the Department, destroy the ~~[cigarettes.]~~ ***contraband tobacco products.***

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. **NRS 202.2493 is hereby amended to read as follows:**

202.2493 1. A person shall not sell, distribute or offer to sell cigarettes or smokeless products made from tobacco in any form other than in an unopened package which originated with the manufacturer and bears any

health warning required by federal law. A person who violates this subsection shall be punished by a fine of $100 and a civil penalty of $100.

2. Except as otherwise provided in subsections 3, 4 and 5, it is unlawful for any person to sell, distribute or offer to sell cigarettes, cigarette paper, tobacco of any description or products made from tobacco to any child under the age of 18 years. A person who violates this subsection shall be punished by a fine of not more than $500 and a civil penalty of not more than $500.

3. A person shall be deemed to be in compliance with the provisions of subsection 2 if, before he sells, distributes or offers to sell to another, cigarettes, cigarette paper, tobacco of any description or products made from tobacco, he:

(a) Demands that the person present a valid driver's license or other written or documentary evidence which shows that the person is 18 years of age or older;

(b) Is presented a valid driver's license or other written or documentary evidence which shows that the person is 18 years of age or older; and

(c) Reasonably relies upon the driver's license or written or documentary evidence presented by the person.

4. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport tobacco or products made from tobacco in the course of the child's lawful employment, provide tobacco or products made from tobacco to the child.

5. With respect to any sale made by his employee, the owner of a retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if he:

(a) Had no actual knowledge of the sale; and

(b) Establishes and carries out a continuing program of training for his employees which is reasonably designed to prevent violations of subsection 2.

6. ***The owner of a retail establishment shall, whenever any product made from tobacco is being sold or offered for sale at the establishment, display prominently at the point of sale a notice indicating that:***

(a) The sale of cigarettes and other tobacco products to minors is prohibited by law; and

(b) The retailer may ask for proof of age to comply with this prohibition.

➥ A person who violates this subsection shall be punished by a fine of not more than $100.

7. It is unlawful for any retailer to sell cigarettes through the use of any type of display:

(a) Which contains cigarettes and is located in any area to which customers are allowed access; and

(b) From which cigarettes are readily accessible to a customer without the assistance of the retailer,

➥ except a vending machine used in compliance with NRS 202.2494. A person who violates this subsection shall be punished by a fine of not more than $500.

8. Any money recovered pursuant to this section as a civil penalty must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2494.

Sec. 42. **NRS 202.24935 is hereby amended to read as follows:**

202.24935 1. It is unlawful for a person to knowingly sell or distribute cigarettes, cigarette paper, tobacco of any description or products made from tobacco to a child under the age of 18 years through the use of the Internet.

2. A person who violates the provisions of subsection 1 shall be punished by a fine of not more than $500 and a civil penalty of not more than $500. Any money recovered pursuant to this section as a civil penalty must be deposited in the same manner as money is deposited pursuant to subsection ~~[6]~~ ***8*** of NRS 202.2493.

3. Every person who sells or distributes cigarettes, cigarette paper, tobacco of any description or products made from tobacco through the use of the Internet shall adopt a policy to prevent a child under the age of 18 years from obtaining cigarettes, cigarette paper, tobacco of any description or products made from tobacco from the person through the use of the Internet. The policy must include, without limitation, a method for ensuring that the person who delivers such items obtains the signature of a person who is over the age of 18 years when delivering the items, that the packaging or wrapping of the items when they are shipped is clearly marked with the word "cigarettes" or the words "tobacco products," and that the person complies with the provisions of 15 U.S.C. § 376. A person who fails to adopt a policy pursuant to this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than $500.

Assemblywoman McClain moved that the Assembly concur in the Senate amendment to Assembly Bill No. 586.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 244, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 952 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 30, which is attached to and hereby made a part of this report.

DAVID BOBZIEN	STEVEN HORSFORD
DEBBIE SMITH	BERNICE MATHEWS
JOE HARDY	
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA30.

AN ACT relating to education; revising provisions governing the review of school districts based upon certain financial management principles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that to the extent money is made available by the Legislature, each school district in this State must undergo a review every 6 years to determine whether the school district is successfully carrying out certain financial management principles. (NRS 387.602-387.644) A school district may, under certain circumstances, be exempt from the 6-year review and undergo the review every 12 years. (NRS 387.631, 387.639) Upon completion of the review of a school district, the consultant who conducted the review must submit a preliminary report of the review to the superintendent of schools of the school district for the superintendent to prepare a written response. The preliminary report and the final report must be made available to the general public. (NRS 387.631) This bill revises provisions governing the preliminary report of the review and requires the consultant to submit the preliminary report to the superintendent of the school district or the superintendent's designee for preparation of a written response of the school district. This bill also ~~[requires the consultant to submit a summary of the preliminary report to the Legislative Committee on Education for its review.]~~ **makes the preliminary report confidential until the final report has been submitted.**

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

Section 1. NRS 387.631 is hereby amended to read as follows:

387.631 1. The consultant shall complete the review of a school district within 6 months after the date on which the review is commenced. The consultant shall prepare a final written report of the review that:

(a) Is documented by sufficient, competent and relevant evidence to provide a reasonable basis for the findings and conclusions of the consultant.

(b) If the consultant determines that the school district is not successfully carrying out the management principles in one or more of the areas set forth in subsection 2 of NRS 387.622, includes a plan for corrective action for the school district to carry out successfully the management principles in each area within 2 years. The plan must:

(1) Be logically connected to and substantiated by the results of the review;

(2) Be specific and detailed; and

(3) Identify methods for the school district to reduce its costs and expenses.

(c) Includes the written response of the school district prepared pursuant to subsection 2.

2. The consultant shall furnish a copy of the preliminary report of the review to the superintendent of schools of the school district ***or the superintendent's designee*** and discuss the report with the ~~[superintendent.]~~ ***superintendent or the superintendent's designee.*** ~~*[The consultant shall submit a summary of the preliminary report to the Legislative Committee on Education for its review.]*~~ Within 30 days after receipt of the preliminary report, the superintendent ~~[shall, in consultation with the board of trustees of the school district,]~~ ***or the superintendent's designee shall*** prepare a written response to the preliminary report that includes a statement of explanation or rebuttal of any findings contained in the preliminary report. The consultant shall include the written response of the school district in his final written report submitted pursuant to subsection 1.

3. The final written report of the consultant must be submitted to the board of trustees of the school district, the State Board, the Legislative Auditor and the Director of the Legislative Counsel Bureau for transmission to the Legislature within 60 days after the review is complete.

4. If the consultant determines that a school district is successfully carrying out the management principles for each of the areas set forth in subsection 2 of NRS 387.622, the school district is exempt from its next 6-year review unless the Legislature subsequently determines that the conditions or circumstances occurring within the school district warrant another review pursuant to NRS 387.602 to 387.644, inclusive. If a school district is exempt pursuant to this subsection, the exemption is valid for only one review and the school district must undergo a review at least once every 12 years.

5. The preliminary report ***is confidential until the final report is submitted. After the final written report is submitted, the preliminary report*** and the final report must be made available to the general public.

Sec. 2. This act becomes effective on July 1, 2007.

Assemblyman Bobzien moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 244.

Remarks by Assemblyman Bobzien.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:40 p.m.

ASSEMBLY IN SESSION

At 12:58 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 129.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 129, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 671 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 27, which is attached to and hereby made a part of this report.

SUSAN GERHARDT	TERRY CARE
BERNIE ANDERSON	DENNIS NOLAN
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA27.

AN ACT relating to guardianships; extending the time in which certain information must be provided to the court for the appointment of a guardian; revising the provisions relating to the extension of temporary guardianships; revising the information that must be set forth in a petition to appoint a temporary guardian for certain wards; revising provisions relating to petitions by guardians to the court; revising provisions relating to the treatment or commitment of a ward; extending the time in which a guardian must wind up the affairs of the guardianship; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill extends the time in which information required in a petition for the appointment of a guardian must be provided to the court after the appointment of the guardian, if the information was not initially included in the petition, from 60 days to 120 days. (NRS 159.044)

Section 2 of this bill revises existing law by providing that a petition which seeks to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention may be granted by a court if the court finds reasonable cause to believe that the proposed ward is unable to respond to such harm or to a need for medical attention rather than reasonable cause to believe that the proposed ward may suffer such harm or actually needs medical attention. (NRS 159.052) Section 4 of this bill revises existing law by providing that a petition which seeks to appoint a guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss must set forth facts showing that the proposed ward is unable to respond to such risk rather

than facts showing that the proposed ward actually faces such risk. (NRS 159.0525) Sections 2-4 also eliminate the restriction that a court may not extend a temporary guardianship for more than two 30-day periods, and instead allow the court to extend a temporary guardianship for not more than ~~[three]~~ **two** successive 60-day periods. Sections 2-4, however, prohibit the court from causing the temporary guardianship to continue longer than ~~[7]~~ **5** months unless there is a showing of extraordinary circumstances.

Existing law requires a guardian to petition the court for an order authorizing the guardian to change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. (NRS 159.078) Section 5 of this bill provides circumstances under which a guardian is not required to petition the court for an order allowing the guardian to utilize such assets.

Existing law provides that a guardian must obtain authority from the court before consenting to the commitment of a ward to a mental health facility. (NRS 159.0805) Section 6 of this bill removes the requirement that a guardian must obtain such authority to consent to the commitment of a ward to a mental health facility.

Section 7 of this bill provides that a guardian is not required to petition the court for authority before obtaining advice, instructions and approval of any proposed act of the guardian relating to the ward's property or taking any other action which the guardian deems would be in the best interests of the ward, unless otherwise ordered by the court. (NRS 159.113)

Existing law establishes the times during which a guardian is entitled to possession of the ward's property and is authorized to perform his duties to wind up the affairs of the guardianship. (NRS 159.193) Section 8 of this bill extends the time during which a guardian retains such authority after a personal representative of the estate of a deceased ward is appointed or if the guardian is awaiting certification acknowledging that he has no further tax liabilities on the ward's estate, from 90 days to 180 days.

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

Section 1. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than ~~[60]~~ ***120*** days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. 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.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

Sec. 2. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Facts which show that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward ~~[may suffer]~~ ***is unable to respond to*** a substantial and immediate risk of physical harm or ~~[needs]~~ ***to a need for*** immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsections 7 and 8, if the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. In addition to any other extension granted pursuant to this section, the court may extend the temporary guardianship, for good cause shown, for not more than ~~[two 30-day]~~ ~~*[three]*~~ ***two successive 60-day*** periods ~~[.]~~ ***, except that the court shall not cause the temporary guardianship to continue longer than*** ~~*[7]*~~ ***5 months unless extraordinary circumstances are shown.***

Sec. 3. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Facts which show that the proposed ward:

(1) Faces a substantial and immediate risk of physical harm or needs immediate medical attention; and

(2) Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1; and

(c) Finds that the petition required pursuant to subsection 1 is accompanied by:

(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; or

(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsections 7 and 8, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days, if:

(a) The certificate required by subsection 2 has been filed and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; or

(b) The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:

(1) The proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and

(3) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. In addition to any other extension granted pursuant to this section, the court may extend the temporary guardianship, for good cause shown, for not more than ~~[two 30-day]~~ ***~~[three]~~ two successive 60-day*** periods ~~[.]~~ ***, except that the court shall not cause the temporary guardianship to continue longer than ~~[7]~~ 5 months unless extraordinary circumstances are shown.***

Sec. 4. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Facts which show that the proposed ward ~~[:~~ ~~(1) Faces]~~ ***:***

(1) Is unable to respond to a substantial and immediate risk of financial loss; and

(2) Lacks capacity to respond to the risk of loss; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1; and

(c) For a proposed ward who is an adult, finds that the petition required pursuant to subsection 1 is accompanied by:

(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; or

(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the

persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsections 7 and 8, if the proposed ward is a minor and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days. Except as otherwise provided in subsection 7, if the proposed ward is an adult, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days, if:

(a) The certificate required by subsection 2 has been filed and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; or

(b) The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:

(1) The proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and

(3) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. In addition to any other extension granted pursuant to this section, the court may extend the temporary guardianship, for good cause shown, for not more than ~~[two 30-day]~~ ~~*[three]*~~ ***two successive 60-day*** periods ~~[.]~~ ***, except that the court shall not cause the temporary guardianship to continue longer than*** ~~*[7]*~~ ***5 months unless extraordinary circumstances are shown.***

Sec. 5. NRS 159.078 is hereby amended to read as follows:

159.078 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Make or change the last will and testament of the ward.

(b) ~~[Make]~~ ***Except as otherwise provided in this paragraph, make*** or change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. ***The guardian is not required to petition the court for an order authorizing the guardian to utilize an asset which has a designated beneficiary, including the closure or discontinuance of the asset, for the benefit of a ward if:***

(1) The asset is the only liquid asset available with which to pay for the proper care, maintenance, education and support of the ward;

(2) The asset, or the aggregate amount of all the assets if there is more than one type of asset, has a value that does not exceed $5,000; or

(3) The asset is a bank account, investment fund or insurance policy and is required to be closed or discontinued in order for the ward to qualify for a federal program of public assistance.

(c) Create for the benefit of the ward or others a revocable or irrevocable trust of the property of the estate.

(d) Except as otherwise provided in this paragraph, exercise the right of the ward to revoke or modify a revocable trust or to surrender the right to revoke or modify a revocable trust. The court shall not authorize or require the guardian to exercise the right to revoke or modify a revocable trust if the instrument governing the trust:

(1) Evidences an intent of the ward to reserve the right of revocation or modification exclusively to the ward;

(2) Provides expressly that a guardian may not revoke or modify the trust; or

(3) Otherwise evidences an intent that would be inconsistent with authorizing or requiring the guardian to exercise the right to revoke or modify the trust.

2. The court may authorize the guardian to take any action described in subsection 1 if, after notice to any person who is adversely affected by the proposed action and an opportunity for a hearing, the guardian proves by clear and convincing evidence that:

(a) A person has committed or is about to commit any act, practice or course of conduct which operates or would operate as a fraud or act of exploitation upon the ward or estate of the ward and that person:

(1) Is designated as a beneficiary in or otherwise stands to gain from an instrument which was executed by or on behalf of the ward; or

(2) Will benefit from the lack of such an instrument; and

(b) A reasonably prudent person or the ward, if competent, would take the proposed action.

3. The petition must be signed by the guardian and contain:

(a) The name, date of birth and current address of the ward;

(b) A concise statement as to the condition of the ward's estate; and

(c) A concise statement as to the necessity for the proposed action.

4. As used in this section:

(a) "Exploitation" means any act taken by a person who has the trust and confidence of a ward or any use of the power of attorney of a ward to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

(2) Convert money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of his money, assets or property.

➥ As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(b) "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive the ward of the ward's rights or property or to otherwise injure the ward.

Sec. 6. NRS 159.0805 is hereby amended to read as follows:

159.0805 1. Except as otherwise provided in subsection 2, a guardian shall not consent to:

(a) The experimental ~~[,]~~ medical, biomedical or behavioral treatment of a ward;

(b) The sterilization of a ward; ***or***

(c) The participation of a ward in any biomedical or behavioral experiment **.** ~~[; or~~

~~(d) The commitment of a ward to a mental health facility.]~~

2. The guardian may consent to and commence any treatment ~~[,]~~ ***or*** experiment ~~[or commitment]~~ described in subsection 1 if the guardian applies to and obtains from the court authority to consent to and commence the treatment ~~[,]~~ ***or*** experiment **.** ~~[or commitment.]~~

3. The court may authorize the guardian to consent to and commence any treatment ~~[,]~~ ***or*** experiment ~~[or commitment]~~ described in subsection 1 only if the treatment ~~[,]~~ ***or*** experiment ***:*** ~~[or commitment:]~~

(a) Is of direct benefit to, and intended to preserve the life of or prevent serious impairment to the mental or physical health of, the ward; or

(b) Is intended to assist the ward to develop or regain the ward's abilities.

Sec. 7. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward ~~[.]~~ ***pursuant to NRS 159.117.***

(b) Continue the business of the ward ~~[.]~~ ***pursuant to NRS 159.119.***

(c) Borrow money for the ward ~~[.]~~ ***pursuant to NRS 159.121.***

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward ~~[.]~~ ***pursuant to NRS 159.123.***

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives ~~[.]~~ ***pursuant to NRS 159.125.***

(f) Sell, lease ~~[,]~~ ***or*** place ~~[into any type of]~~ ***in*** trust ~~[or surrender]~~ any property of the ward ~~[.]~~ ***pursuant to NRS 159.127.***

(g) Exchange or partition the ward's property ~~[.~~

~~(h) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.~~

~~(i)]~~ ***pursuant to NRS 159.175.***

(h) Release the power of the ward as trustee, personal representative, custodian for a minor or guardian.

~~[(j)]~~ ***(i)*** Exercise or release the power of the ward as a donee of a power of appointment.

~~[(k)]~~ ***(j)*** Change the state of residence or domicile of the ward.

~~[(l)]~~ ***(k)*** Exercise the right of the ward to take under or against a will.

~~[(m)]~~ ***(l)*** Transfer to a trust created by the ward any property unintentionally omitted from the trust.

~~[(n)]~~ ***(m)*** Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

~~[(o) Take any other action which the guardian deems would be in the best interests of the ward.]~~

2. ***Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:***

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

~~[3.]~~ ***4.*** Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

~~[4.]~~ ***5.*** A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed ***,*** the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward ~~[,]~~ or ~~[to]~~ complete contracts of the ward.

Sec. 8. NRS 159.193 is hereby amended to read as follows:

159.193 1. The guardian of the estate is entitled to possession of the ward's property and is authorized to perform the duties of the guardian to wind up the affairs of the guardianship:

(a) For a period that is reasonable and necessary after the termination of the guardianship;

(b) Except as otherwise provided in paragraph (c), for not more than ~~[90]~~ ***180*** days after the date of the appointment of a personal representative of the estate of a deceased ward; or

(c) Upon approval of the court, for more than ~~[90]~~ ***180*** days if the guardian is awaiting certification from the appropriate authority acknowledging that the guardian has no further liability for taxes on the estate.

2. To wind up the affairs of the guardianship, the guardian shall:

(a) Pay all expenses of administration of the guardianship estate, including those incurred in winding up the affairs of the guardianship.

(b) Complete the performance of any contractual obligations incurred by the guardianship estate.

(c) With prior approval of the court, continue any activity that:

(1) The guardian believes is appropriate and necessary; or

(2) Was commenced before the termination of the guardianship.

(d) If the guardianship is terminated for a reason other than the death of the ward, examine and allow and pay, or reject, all claims presented to the guardian prior to the termination of the guardianship for obligations incurred prior to the termination.

Sec. 9. This act becomes effective on July 1, 2007.

Assemblywoman Gerhardt moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 129.

Remarks by Assemblywoman Gerhardt.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 483.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 483, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 837 of the Assembly be concurred in.

TICK SEGERBLOM	MARK AMODEI
WILLIAM HORNE	TERRY CARE
GARN MABEY	MAURICE WASHINGTON
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Segerblom moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 483.

Remarks by Assemblyman Segerblom.

Motion carried by a constitutional majority.

RECEDE FROM SENATE AMENDMENTS

Assemblyman Arberry moved that the Assembly do not recede from its action on Senate Bill No. 517, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Arberry, Koivisto, and Grady as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 517.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 324, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 73, 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 Ways and Means, to which was rereferred Senate Bill No. 123, as had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 123.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1161.

Section 3 of S.B. No. 123 is hereby amended as follows:

Sec. 3. ~~*[1. Except as otherwise provided in subsection 2, records of a nongovernmental entity that are directly related to the administration, management or regulation of an activity, program, institution or facility by the nongovernmental entity for or on behalf of a governmental entity are public records that must be open for inspection and copying.*~~

~~*2. This section does not apply to the financial or other proprietary records of the nongovernmental entity.]*~~ **(Deleted by amendment.)**

Section 7 of S.B. No. 123 is hereby amended as follows:

Sec. 7. ~~[NRS 239.005 is hereby amended to read as follows:~~

~~239.005 As used in this chapter, unless the context otherwise requires:~~

~~1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.~~

~~2. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.~~

~~3. "Division" means the Division of State Library and Archives of the Department of Cultural Affairs.~~

~~4. "Governmental entity" means:~~

~~(a) An elected or appointed officer of this State or of a political subdivision of this State;~~

~~(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State or of a political subdivision of this State;~~

~~(c) A university foundation, as defined in NRS 396.405;~~ [or]

~~(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools~~ [.] ~~*; or*~~

~~*(e) Any other person or nongovernmental entity that administers, manages or regulates an activity, program, institution or facility for or on behalf of a governmental entity described in paragraphs (a) to (d), inclusive, of this subsection.]*~~ **(Deleted by amendment.)**

Section 218 of S.B. No. 123 is hereby amended as follows:

Sec. 218. 1. Except as otherwise provided in this subsection, for the purposes of section 6 of this act, a person may apply to a district court on or

after October 1, 2007, for an order directing a governmental entity to allow the person to inspect or copy a public book or record, or a part thereof, if the public book or record has been in the legal custody or control of a governmental entity for a period of 30 years or more on the date of the application. A person may apply to the district court on or after October 1, 2007, for an order directing a governmental entity to allow the person to inspect or copy a public book or record that pertains to a natural person if, on the date of the application, the public book or record has been in the legal custody or control of a governmental entity for a period of 30 years or more or the natural person has died, whichever is later.

2. As used in this section, "governmental entity" has the meaning ascribed to it in NRS 239.005 **.** ~~[, as amended by section 7 of this act.]~~

The Title of S.B. No. 123 is hereby amended as follows:

AN ACT relating to public records; ~~[providing that certain records of a nongovernmental entity are public books or records under certain circumstances;]~~ requiring a governmental entity to take certain action in response to a written request to inspect or copy a public book or record; making various changes regarding the confidentiality of records; authorizing a person to apply to a district court for an order to allow the person to inspect or copy certain confidential public books or records that have been in the custody of a governmental entity for a certain period; and providing other matters properly relating thereto.

If this amendment is adopted, the Legislative Counsel's Digest will be changed as follows:

Legislative Counsel's Digest:

Under existing law, all public books and records of a governmental entity, the contents of which are not otherwise declared by law to be confidential or which the governmental entity determines pursuant to a balancing test must not be disclosed, must be open at all times during office hours for inspection and copying. (NRS 239.010; ***Donrey v. Bradshaw***, 106 Nev. 630 (1990))

Section 4 of this bill provides that if a governmental entity receives a written request to inspect or copy a public book or record, the governmental entity must, within 5 business days after the date on which the person who has legal custody or control of the book or record has received the request: (1) allow the requester to inspect or copy the public book or record; (2) if the governmental entity does not have legal custody or control of the public book or record, notify the requester of that fact and where, if known, the public book or record is located; (3) if the governmental entity cannot make the public book or record available within 5 business days, notify the requester of the date and time when the book or record will be available; or (4) if the public book or record is confidential, notify the requester of that fact in writing, including a citation to the legal authority that makes the book or record confidential.

With certain exceptions, section 6 of this bill provides that, notwithstanding any provision of law that has declared a public book or

record, or a part thereof, to be confidential, once a public book or record has been in the legal custody or control of one or more governmental entities for a period of at least 30 years, a person may apply to the appropriate district court for an order allowing him to inspect or copy the public book or record. If the public book or record pertains to a natural person, a person may not apply for such a court order until 30 years after the book or record has been in the legal custody or control of a governmental entity or the death of the person to whom the book or record pertains, whichever is later. Section 218 of this bill clarifies that a person may apply for such an order on or after October 1, 2007, the effective date of the bill, to inspect or copy public books or records that already meet the conditions set forth in section 6.

Section 5 of this bill provides that in any judicial or administrative proceeding in which the confidentiality of a public book or record is at issue and the governmental entity that has legal custody or control of the public book or record asserts that the public book or record is confidential, the governmental entity has the burden of proving such confidentiality.

~~[Sections 3 and 7 of this bill provide that although a nongovernmental entity which performs certain functions for or on behalf of a governmental entity is considered a governmental entity for the purposes of Nevada's public records law (chapter 239 of NRS), the records of a nongovernmental entity that are directly related to the administration, management or regulation of an activity, program, institution or facility for or on behalf of a governmental entity are public records that must be open for inspection and copying. Section 3 specifically excludes financial or other proprietary records of a nongovernmental entity from this requirement.]~~

Section 8 of this bill provides that a governmental entity shall not deny a request to inspect or copy a public book or record because the public book or record contains information that is confidential if the governmental entity can redact the confidential information.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 324.

Bill read third time.

Roll call on Senate Bill No. 324:

YEAS—42.

NAYS—None.

Senate Bill No. 324 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 123.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Senate Bill No. 123:

YEAS—35.

NAYS—Beers, Cobb, Gansert, Hardy, Settelmeyer, Stewart, Weber—7.

Senate Bill No. 123 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 73.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1159.

AN ACT relating to the State Legislature; providing for allowances for certain travel expenses incurred by Legislators during the legislative interim; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that each Legislator is entitled to receive, during the legislative interim, a travel allowance not to exceed a total of ~~[$5,000]~~ **$3,000** for travel within ~~[his legislative district]~~ **the State** to participate in a meeting of a legislative committee or subcommittee of which he is not a member or with an officer, employee, agency, board, bureau, commission, department, division, district or other unit of federal, state or local government or any other public entity regarding an issue relating to ~~[that legislative district.]~~ **the State.** The travel allowance applies only to trips that are 50 miles or more one way or 100 miles or more round trip. The travel allowance does not apply to travel that occurs after the Legislator has filed a declaration or an acceptance of candidacy for an elective office and remains a candidate for that office.

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section and NRS 218.2207, each Senator and Assemblyman is entitled to receive, during the legislative interim, an allowance for travel within ~~[his legislative district]~~ the State to participate in a meeting of a legislative committee or subcommittee of which he is not a member or with an officer, employee, agency, board, bureau, commission, department, division, district or other unit of federal, state or local government or any other public entity regarding an issue relating to ~~[that legislative district.]~~ the State.

2. The allowance for travel payable pursuant to this section applies only to trips whose one-way distance is 50 miles or more or whose round-trip distance is 100 miles or more.

3. The maximum allowance for travel payable to each Senator and Assemblyman pursuant to this section during a legislative interim is ~~[$5,000,]~~ $3,000, except that no allowance for travel pursuant to this section is payable to a Senator or Assemblyman for travel that occurs during the legislative interim at any time after the date on which the Senator or Assemblyman has filed a declaration or an acceptance of candidacy for an elective office and remains a candidate for that office.

4. Transportation must be by the most economical means, considering total cost and time spent in transit. The allowance is:

(a) If the travel is by private conveyance, the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax.

(b) If the travel is not by private conveyance, the actual amount expended.

5. Claims made pursuant to this section must be paid from the Legislative Fund unless otherwise provided by specific statute. A claim must not be paid unless the Senator or Assemblyman submits a signed statement affirming:

(a) The date of travel; ~~[and]~~

(b) The purpose of the travel and of the participant's attendance; and

(c) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 73.

Bill read third time.

Roll call on Senate Bill No. 73:

YEAS—42.

NAYS—None.

Senate Bill No. 73 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 1:12 p.m.

ASSEMBLY IN SESSION

At 1:31 p.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 434, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 141 and 205.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 196, Amendment No. 1153, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 246, Senate Amendment No. 1120, and requests a conference, and appointed Senators Rhoads, Coffin and Cegavske as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 50.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 127.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 182.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 461.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 521.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 594.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 578.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 108, 238, 248.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 1117 to Senate Bill No. 331.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 1130 to Senate Bill No. 341.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Cegavske, Beers and Washington as a first Conference Committee concerning Senate Bill No. 184.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 428.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 328.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Anderson, Horne, and Carpenter as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 246.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 108.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 238.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 248.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 578.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 434.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1162.

AN ACT relating to education; ~~[requiring the boards of trustees of certain school districts to carry out certain actions requested by the general public under certain circumstances; revising provisions governing courses of study;]~~ revising provisions governing eligibility for a millennium scholarship; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill requires the board of trustees of a school district located in a county whose population is 400,000 or more (currently Clark County) to take action on certain matters submitted by a member of the general public. If the board of trustees does not take such action within 60 days after the request is made, the board shall issue a written explanation setting forth the reasons for declining to take the requested action.~~

~~Section 2 of this bill requires the State Board of Education to adopt a program of multicultural education.~~

~~Existing law requires instruction in American government and American history. (NRS 389.020, 389.030) Section 3 of this bill requires the course in American government to include the study of the government of the State of Nevada.~~

~~Existing law requires the Department of Education to prescribe a code of honor relating to cheating for pupils enrolled in public schools. (NRS 392.461)~~] Existing law creates the Governor Guinn Millennium Scholarship Program and prescribes the criteria for eligibility of a millennium scholarship. (NRS 396.911-396.938) Section 4 of this bill provides ~~[that if a pupil violates the code of honor relating to cheating while he is enrolled in a public high school, the pupil is not eligible for a millennium scholarship.]~~ **an exception from the 2-year residency requirement for students who have a parent or legal guardian on active duty serving in the Armed Forces of the United States. Section 4 of this bill further requires the Board of Regents of the Nevada System of Higher Education to adopt procedures by which an applicant for a millennium scholarship would be required to execute an affidavit declaring his eligibility for a millennium scholarship and his citizenship or immigration status.**

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

Section 1. ~~[Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. A person may request that the board of trustees of a school district located in a county whose population is 400,000 or more to consider and take action on a matter within the jurisdiction of the board by submitting the request to the board at a public meeting of the board, including an oral request submitted during a period of the meeting devoted to comments by the general public.*~~

~~*2. The board of trustees of a school district located in a county whose population is 400,000 or more shall carry out each request for action submitted to the board of trustees pursuant to subsection 1. If the board of trustees declines to carry out a request for action submitted pursuant to subsection 1 within 60 days after the request is submitted, the board of trustees shall issue a written explanation setting forth the specific reasons for declining to take the requested action.~~] **(Deleted by amendment.)**

Sec. 2. ~~[Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The State Board shall adopt regulations that prescribe a program of multicultural education, including, without limitation, information relating to the contributions made by men and women from various racial and ethnic backgrounds.*~~

~~*2. The board of trustees of each school district shall ensure that the program prescribed pursuant to subsection 1 is provided to pupils enrolled in grades 2 to 12, inclusive, with particular emphasis for pupils enrolled in elementary school and middle school and junior high school.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 389.020 is hereby amended to read as follows:~~

~~389.020 1. In all public schools, the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS, instruction must be given in American government, including, without limitation, the:~~

~~(a) Essentials of the:~~

~~(1) Constitution of the United States, including, without limitation, the Bill of Rights;~~

~~(2) Constitution of the State of Nevada; and~~

~~(3) Declaration of Independence;~~

~~(b) Origin and history of the Constitutions;~~ [and]

~~*(c) Study of the government of the State of Nevada; and*~~

~~*(d)* Study of and devotion to American institutions and ideals.~~

~~2. Except as otherwise provided in NRS 392A.100, the instruction required in subsection 1 must be given during at least 1 year of the elementary school grades and for a period of at least 1 year in all high schools.]~~ **(Deleted by amendment.)**

Sec. 4. NRS 396.930 is hereby amended to read as follows:

396.930 1. Except as otherwise provided in subsections 2 ~~*[, 3]*~~ and 3. ~~*[4,]*~~ a student may apply to the Board of Regents for a millennium scholarship if he:

(a) Has been a resident of this State for at least 2 years before he applies for the scholarship;

(b) Except as otherwise provided in paragraph (c), graduated from a public or private high school in this State:

(1) After May 1, 2000, but not later than May 1, 2003; or

(2) After May 1, 2003, and, except as otherwise provided in paragraph (c) of subsection 2, not more than 6 years before he applies for the scholarship;

(c) Does not satisfy the requirements of paragraph (b) and:

(1) Was enrolled as a pupil in a public or private high school in this State with a class of pupils who were regularly scheduled to graduate after May 1, 2000;

(2) Received his high school diploma within 4 years after he was regularly scheduled to graduate; and

(3) Applies for the scholarship not more than 6 years after he was regularly scheduled to graduate from high school;

(d) Maintained in high school in the courses designated by the Board of Regents pursuant to paragraph (b) of subsection 2, at least:

(1) A 3.00 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2003 or 2004;

(2) A 3.10 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2005 or 2006; or

(3) A 3.25 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2007 or a later graduating class; and

(e) Is enrolled in at least:

(1) Six semester credit hours in a community college within the System; or

(2) Twelve semester credit hours in another eligible institution.

2. The Board of Regents:

(a) Shall define the core curriculum that a student must complete in high school to be eligible for a millennium scholarship.

(b) Shall designate the courses in which a student must earn the minimum grade point averages set forth in paragraph (d) of subsection 1.

(c) May establish criteria with respect to students who have been on active duty serving in the Armed Forces of the United States to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1.

(d) Shall establish criteria with respect to students who have a documented physical or mental disability or who were previously subject to an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:

(1) The 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1 and subparagraph (3) of paragraph (c) of subsection 1 and any limitation applicable to students who are eligible pursuant to subparagraph (1) of paragraph (b) of subsection 1.

(2) The minimum number of credits prescribed in paragraph (e) of subsection 1.

(e) Shall establish criteria with respect to students who have a parent or legal guardian on active duty in the Armed Forces of the United States to exempt such students from the residency requirement set forth in paragraph (a) of subsection 1 or subsection 3.

3. Except as otherwise provided in paragraph (c) of subsection 1, for students who did not graduate from a public or private high school in this State and who ***, except as otherwise provided in paragraph (e) of subsection 2,*** have been residents of this State for at least 2 years, the Board of Regents shall establish:

(a) The minimum score on a standardized test that such students must receive; or

(b) Other criteria that students must meet,

➥ to be eligible for millennium scholarships.

4. ~~*[A student is not eligible for a millennium scholarship if he violated the code of honor relating to cheating prescribed pursuant to NRS 392.461 while he was enrolled in a public high school in this State.*~~

~~*5.]*~~ In awarding scholarships, the Board of Regents shall enhance its outreach to students who:

(a) Are pursuing a career in education or health care;

(b) Come from families who lack sufficient financial resources to pay for the costs of sending their children to an eligible institution; or

(c) Substantially participated in an antismoking, antidrug or antialcohol program during high school.

5. The Board of Regents shall establish a procedure by which an applicant for a millennium scholarship is required to execute an affidavit declaring his eligibility for a millennium scholarship pursuant to the requirements of this section. The affidavit must include a declaration that the applicant is a United States citizen or has lawful immigration status or that the applicant has filed an application to legalize his immigration status or will file an application to legalize his immigration status as soon as he is eligible to do so.

Sec. 5. This act becomes effective on July 1, ~~[2007.]~~ **2008.**

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 434.

Bill read third time.

Roll call on Assembly Bill No. 434:

YEAS—41.

NAYS—Beers.

Assembly Bill No. 434 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 3 p.m.

Motion carried.

Assembly in recess at 1:38 p.m.

ASSEMBLY IN SESSION

At 4:08 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Concurrent Resolution No. 35, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

ELLEN KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 226, 248, 301, 454, 562, 578, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 617.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 434, 556.

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 49.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 178; Assembly Bill No. 244; Senate Bill No. 274; Senate Bill No. 354; Senate Bill No. 529.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Concurrent Resolution No. 35 be taken from the Resolution File and placed on the Chief Clerk's desk.

Motion carried.

Senate Concurrent Resolution No. 49.

Assemblywoman Koivisto moved the adoption of the resolution.

Remarks by Assemblywoman Koivisto.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 434.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 556.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 226.

Bill read third time.

Roll call on Senate Bill No. 226:

YEAS—42.

NAYS—None.

Senate Bill No. 226 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 437 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 437.

Bill read third time.

Roll call on Senate Bill No. 437:

YEAS—42.

NAYS—None.

Senate Bill No. 437 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 248.

Bill read third time.

Roll call on Senate Bill No. 248:

YEAS—42.

NAYS—None.

Senate Bill No. 248 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 301.

Bill read third time.

Roll call on Senate Bill No. 301:

YEAS—42.

NAYS—None.

Senate Bill No. 301 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 387.
Bill read third time.
Roll call on Senate Bill No. 387:
YEAS—41.
NAYS—Claborn.
Senate Bill No. 387 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 454.
Bill read third time.
Roll call on Senate Bill No. 454:
YEAS—42.
NAYS—None.
Senate Bill No. 454 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 562.
Bill read third time.
Remarks by Assemblyman Carpenter.
Roll call on Senate Bill No. 562:
YEAS—42.
NAYS—None.
Senate Bill No. 562 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 578.
Bill read third time.
Roll call on Senate Bill No. 578:
YEAS—42.
NAYS—None.
Senate Bill No. 578 having received a two-thirds majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 628.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 577.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 404.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 246, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 1120 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 39, which is attached to and hereby made a part of this report.

BERNIE ANDERSON	DEAN RHOADS
WILLIAM HORNE	BOB COFFIN
JOHN CARPENTER	BARBARA CEGAVSKE
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA39.

AN ACT relating to courts; ~~[creating a Tenth Judicial District;]~~ increasing the number of district judges in the Second and Eighth Judicial Districts; increasing the number of district judges in the Second and Eighth Judicial Districts who must be judges of the family court; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill creates a Tenth Judicial District for the Counties of Churchill and Mineral consisting of two district judges. Churchill County is removed from the Third Judicial District in section 1.3 and the number of judges in that district is reduced from three to two.]~~

Section 1.5 of this bill increases the number of district judges in the Second Judicial District, which includes Washoe County, from 12 to 14. (NRS 3.010, 3.012) Both of the additional district judges must be judges of the family court, increasing the number of judges of the family court in the Second Judicial District from 4 to 6. (NRS 3.012)

Section 2 of this bill increases the number of district judges in the Eighth Judicial District, which includes Clark County, from 37 to 43 **.** (NRS 3.010, 3.018) Five of the 6 additional district judges must be judges of the family court, increasing the number of judges of the family court in the Eighth Judicial District from 13 to 18. (NRS 3.018)

Sections 4 and 4.5 of this bill make an appropriation to pay for the salaries of the additional district judges.

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

Section 1. ~~[Chapter 3 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*For the Tenth Judicial District there must be two district judges.]~~ **(Deleted by amendment.)**

Sec. 1.3. ~~[NRS 3.010 is hereby amended to read as follows:~~

~~3.010 The State is hereby divided into~~ [nine] *10* ~~judicial districts, as follows:~~

~~First Judicial District.—Carson City and the County of Storey constitute the First Judicial District.~~

~~Second Judicial District.—The County of Washoe constitutes the Second Judicial District.~~

~~Third Judicial District.—The [Counties of Churchill and] *County of* Lyon [constitute] *constitutes* the Third Judicial District.~~

~~Fourth Judicial District.—The County of Elko constitutes the Fourth Judicial District.~~

~~Fifth Judicial District.—The Counties of [Mineral,] Esmeralda and Nye constitute the Fifth Judicial District.~~

~~Sixth Judicial District.—The Counties of Lander, Pershing and Humboldt constitute the Sixth Judicial District.~~

~~Seventh Judicial District.—The Counties of Eureka, White Pine and Lincoln constitute the Seventh Judicial District.~~

~~Eighth Judicial District.—The County of Clark constitutes the Eighth Judicial District.~~

~~Ninth Judicial District.—The County of Douglas constitutes the Ninth Judicial District.~~

~~*Tenth Judicial District.—The Counties of Churchill and Mineral constitute the Tenth Judicial District.]~~ **(Deleted by amendment.)**

Sec. 1.5. NRS 3.012 is hereby amended to read as follows:

3.012 For the Second Judicial District there must be ~~[12]~~ ***14*** district judges, ~~[4]~~ ***6*** of whom must be judges of the family court.

Sec. 1.7. NRS 3.013 is hereby amended to read as follows:

3.013 For the Third Judicial District there must be ~~[three]~~ ***two*** district judges.

Sec. 2. NRS 3.018 is hereby amended to read as follows:

3.018 For the Eighth Judicial District there must be ~~[37]~~ ***43*** district judges, ~~[13]~~ ***18*** of whom must be judges of the family court.

Sec. 3. The additional district judges required for the Second Judicial District pursuant to section 1.5 of this act ~~[,]~~ **and** the additional district judges required for the Eighth Judicial District pursuant to section 2 of this act ~~[and the additional district judge required for the Tenth Judicial District pursuant to section 1 of this act]~~ must be selected at the general election held on November 4, 2008, and take office on January 5, 2009. The terms of these judges expire on January 5, 2015.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the District Judges' Salary Account the sum of ~~[$959,616]~~ **$852,992** for the salaries of the additional district judges required pursuant to sections ~~[1,]~~ 1.5 and 2 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 4.5. 1. There is hereby appropriated from the State General Fund to the District Judges' Salary Account the sum of ~~[$787,779]~~ **$700,248** for the salaries of the additional district judges required pursuant to sections ~~[1,]~~ 1.5 and 2 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 5. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. 1. This section and sections 3 and 5 of this act become effective on October 1, 2007.

2. Section 4 of this act becomes effective on July 1, 2008, if Senate Bill No. 248 of this Session is enacted by the Legislature and approved by the Governor.

3. Section 4.5 of this act becomes effective on July 1, 2008, only if section 4 of this act does not become effective.

4. Sections 1 to 2, inclusive, of this act become effective on January 5, 2009.

Assemblyman Anderson moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 246.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 246.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 577.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 354, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 930 and 1017 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 32, which is attached to and hereby made a part of this report.

BERNIE ANDERSON	STEVEN HORSFORD
MARILYN KIRKPATRICK	VALERIE WIENER
JOHN CARPENTER	MAURICE WASHINGTON
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA32.

AN ACT relating to the safety of children; prohibiting the possession of certain firearms on the property of or in a vehicle of child care facilities; revising the definition of "firearm"; requiring children who are taken into custody for possession of a firearm while on school property to submit to an evaluation by a qualified professional and a drug test; revising provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; revising the jurisdiction of school police officers under certain circumstances; and providing other matters property relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the definition of "firearm" for the purposes of the provision prohibiting the unlawful possession of a firearm while on school property. (NRS 202.265) Section 1 further makes the provisions prohibiting a person from carrying or possessing certain firearms while on school grounds or in a vehicle of a school applicable to child care facilities ~~[.]~~ **that are licensed pursuant to chapter 432A of NRS.** However, if the child care facility is located at or in the home of a natural person, those provisions do not apply to the owner or operator of the facility who resides in the home if he complies with all laws concerning possession of the weapon. In addition, the prohibition only applies with respect to such a facility during the normal hours of business. Existing law allows a juvenile court to decide whether to order a child who is taken into custody for certain unlawful acts involving firearms to submit to an evaluation by a qualified professional. (NRS 62C.060) Section 3 of this bill requires a juvenile court to order a child who is taken into custody for possession of a firearm on school property or at a child care facility to submit to an evaluation by a qualified professional and a drug test.

Existing law sets forth certain conditions to be imposed on sex offenders on lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Sections 4-6 of this bill prohibit such sex offenders from establishing residences in a facility that houses more than three persons who have been released from prison unless the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

Existing law gives school police officers the powers of a peace officer and establishes the jurisdiction of such officers. (NRS 391.275) Section 8.5 of this bill expands the jurisdiction of school police officers in certain circumstances.

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

Section 1. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess ~~[,]~~ while on the property of the Nevada System of Higher Education ***,*** ~~[or]~~ a private or public school ***or child care facility,*** or while in a vehicle of a private or public school ~~[:]~~ ***or child care facility:***

(a) An explosive or incendiary device;

(b) A dirk, dagger or switchblade knife;

(c) A nunchaku or trefoil;

(d) A blackjack or billy club or metal knuckles; ~~[or]~~

(e) A pistol, revolver or other firearm ~~[.]~~ ***; or***

(f) Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. This section does not prohibit the possession of a weapon listed in subsection 1 on the property of ~~[a]~~ ***:***

(a) A private or public school ***or child care facility*** by a:

~~[(a)]~~ ***(1)*** Peace officer;

~~[(b)]~~ ***(2)*** School security guard; or

~~[(c)]~~ ***(3)*** Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school ***or the person designated by a child care facility to give permission*** to carry or possess the weapon.

(b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.

4. The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.

~~[4.]~~ ***5.*** For the purposes of this section:

(a) ***"Childcare facility" means any child care facility that is licensed pursuant to chapter 432A of NRS or licensed by a city or county.***

(b) "Firearm" includes ~~[:~~

~~(1) Any device used to mark the clothing of a person with paint or any other substance; and~~

~~(2) Any]~~ ***any*** device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

~~[(b)]~~ ***(c)*** "Nunchaku" has the meaning ascribed to it in NRS 202.350.

~~[(c)]~~ ***(d)*** "Switchblade knife" has the meaning ascribed to it in NRS 202.350.

~~[(d)]~~ ***(e)*** "Trefoil" has the meaning ascribed to it in NRS 202.350.

~~[(c)]~~ ***(f)*** "Vehicle" has the meaning ascribed to "school bus" in NRS 484.148.

Sec. 2. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while he is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while he is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while he is on the premises of:

(a) A public building that is located on the property of a public school ***or a child care facility*** or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed firearm while he is on the premises of the public building pursuant to ***subparagraph (3) of*** paragraph ~~[(c)]~~ ***(a)*** of subsection 3 of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless the permittee is not prohibited from carrying a concealed firearm while he is on the premises of the public building pursuant to subsection 4.

4. The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which he presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

5. A person who violates subsection 2 or 3 is guilty of a misdemeanor.

6. As used in this section ~~[, "public]~~ ***:***

(a) "Childcare facility" has the meaning ascribed to it in paragraph (a) of subsection 5 of NRS 202.265.

(b) "Public building" means any building or office space occupied by:

~~[(a)]~~ ***(1)*** Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

~~[(b)]~~ ***(2)*** The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

➥ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 3. NRS 62C.060 is hereby amended to read as follows:

62C.060 1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall ***, if the child was taken into custody for:***

(a) Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, order the child to:

(1) Be evaluated by a qualified professional; and

(2) Submit to a test to determine whether the child is using any controlled substance.

(b) Committing an unlawful act involving a firearm other than the act described in paragraph (a), determine whether to order the child to be evaluated by a qualified professional.

4. If the juvenile court orders the child to be evaluated by a qualified professional ~~[,]~~ ***or to submit to a test to determine whether the child is using any controlled substance,*** the evaluation ***or the results from the test*** must be completed not later than 14 days after the detention hearing. Until the evaluation ***or the test*** is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

6. As used in this section, "child care facility" has the meaning ascribed to it in paragraph (a) of subsection 5 of NRS 202.265.

Sec. 4. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 3, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime **.** ~~[;]~~

(b) Reside at a location only if ~~[it]~~ ***:***

(1) The residence has been approved by the parole and probation officer assigned to the defendant **.** ~~[and keep]~~

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The defendant keeps the parole and probation officer informed of his current address **.** ~~[;]~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer **.** ~~[;]~~

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant **.** ~~[;]~~

(e) Participate in and complete a program of professional counseling approved by the Division **.** ~~[;]~~

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance **.** ~~[;]~~

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant **.** ~~[;]~~

(h) Abstain from consuming, possessing or having under his control any alcohol **.** ~~[;]~~

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection 2 **.** ~~[;]~~

(j) Not use aliases or fictitious names **.** ~~[;]~~

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant **.** ~~[.]~~

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact **.** ~~[.]~~

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend **.** ~~[.]~~

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication **.** ~~[.]~~

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant **.** ~~[.]~~

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant **.** ~~[.]~~

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant **.** ~~[; and]~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The defendant;

(c) The parole and probation officer assigned to the defendant;

(d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The court is not required to impose a condition of probation or suspension of sentence listed in subsection 1 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

4. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

Sec. 5. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. ***Except as otherwise provided in subsection 4, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:***

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsection 3 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

5. A person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of:

(a) If the violation constitutes a minor violation, a misdemeanor.

(b) If the violation constitutes a major violation, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

~~[4.]~~ ***6.*** For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of

lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~[5.]~~ ***7.*** As used in this section:

(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:

(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;

(2) The use of a deadly weapon, explosives or a firearm;

(3) The use or threatened use of force or violence against a person;

(4) Death or bodily injury of a person;

(5) An act of domestic violence;

(6) Harassment, stalking or threats of any kind; or

(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.

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

Sec. 6. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~[it]~~ ***:***

(1) The residence has been approved by the parole and probation officer assigned to the parolee **.** ~~[and keep]~~

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The parolee keeps the parole and probation officer informed of his current address **.** ~~[;]~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer **.** ~~[;]~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee **.** ~~[;]~~

(d) Participate in and complete a program of professional counseling approved by the Division **.** ~~[;]~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance **.** ~~[;]~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee **.** ~~[;]~~

(g) Abstain from consuming, possessing or having under his control any alcohol **.** ~~[;]~~

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2 **.** ~~[;]~~

(i) Not use aliases or fictitious names **.** ~~[;]~~

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee **.** ~~[;]~~

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact **.** ~~[;]~~

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend **.** ~~[;]~~

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication **.** ~~[;]~~

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee **.** ~~[;]~~

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee **.** ~~[;]~~

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee **.** ~~[; and]~~

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or

communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The parolee;

(c) The parole and probation officer assigned to the parolee;

(d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. NRS 391.275 is hereby amended to read as follows:

391.275 ***1.*** The jurisdiction of each school police officer of a school district extends to all school property, buildings and facilities within the school district ~~[,]~~ for the purpose of:

~~[1.]~~ ***(a)*** Protecting school district personnel, pupils, or real or personal property; or

~~[2.]~~ ***(b)*** Cooperating with local law enforcement agencies in matters relating to personnel, pupils or real or personal property of the school district.

2. In addition to the jurisdiction set forth in subsection 1, a school police officer of a school district has jurisdiction:

(a) Beyond the school property, buildings and facilities when in hot pursuit of a person believed to have committed a crime;

(b) At activities or events sponsored by the school district that are in a location other than the property, buildings or facilities within the school district; and

(c) When authorized by the superintendent of schools of the school district, on the streets that are adjacent to the school property, buildings and facilities within the school district for the purpose of issuing traffic citations for violations of traffic laws and ordinances during the times that the school is in session or school-related activities are in progress.

Sec. 9. 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 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 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.

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 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 Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim 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) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) 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 Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility licensed as a

residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling, if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. 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.

10. 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.

➥ ***The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.***

11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 10. The amendatory provisions of:

1. Section 4 of this act apply to any person who is granted probation or a suspension of sentence before, on or after October 1, 2007;

2. Section 5 of this act apply to any person placed under a program of lifetime supervision before, on or after October 1, 2007; and

3. Sections 6 and 7 of this act apply to any person released on parole before, on or after October 1, 2007.

Assemblyman Anderson moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 354.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 328, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 848 and 1027 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 33, which is attached to and hereby made a part of this report.

TICK SEGERBLOM	JOHN LEE
DEBBIE SMITH	MIKE MCGINNESS
LYNN STEWART	MAURICE WASHINGTON
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA33.

AN ACT relating to educational personnel; revising provisions governing the monthly salaries of the members of the boards of trustees of school districts; requiring the board of trustees of each school district to adopt a program to engage certain administrators in annual classroom instruction, observation and other activities; making various changes regarding the evaluation and admonition of educational personnel; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes varying salaries for the officers and other members of the boards of trustees of school districts based on the number of pupils enrolled in the school district during the immediately preceding school year. (NRS 386.320) Section 2 of this bill revises provisions governing the salaries of the members of the boards of trustees of school districts based on the population of the county in which the school district is located. Section 2 also authorizes a member of the board of trustees to donate all or a part of his salary to a school within the school district or to the school district.

The board of trustees of a school district is authorized to employ a superintendent of schools, teachers and all other necessary employees. (NRS 391.100, 391.110, 391.120) Section 4 of this bill requires the board of trustees of each school district to adopt a program to engage administrators employed at the district level in annual classroom instruction, observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators.

Existing law requires each probationary teacher to be evaluated at least three times during each school year and a postprobationary teacher to be evaluated at least once each school year. (NRS 391.3125) Section 8 of this bill requires an administrator who is responsible for evaluating a teacher to

personally observe that teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period. If a deficiency is discovered during the evaluation process, every effort must be made to assist the teacher to correct the deficiency. Existing law prescribes the circumstances under which an administrator may admonish an employee. (NRS 391.313) Section 9 of this bill requires that, if an administrator admonishes a teacher, an admonition must include a description of the deficiencies of the teacher and the actions that are necessary to correct those deficiencies.

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

Section 1. NRS 386.290 is hereby amended to read as follows:

386.290 1. In addition to salaries ~~[allowed under]~~ ***required by*** NRS 386.320 **,** a trustee ~~[shall]~~ ***must*** be allowed:

(a) His traveling expenses for traveling each way between his home and the place where board meetings are held at the rate authorized by law for state officers.

(b) His living expenses necessarily incurred while in actual attendance at board meetings at the rate authorized by law for state officers.

2. Claims for mileage and per diem allowances ~~[shall]~~ ***must*** be allowed and paid in the same manner as other claims against the school district fund are paid, but no claim for mileage and per diem allowances for living expenses ~~[shall]~~ ***must*** be allowed or paid to a trustee residing not more than 5 miles from the place where board meetings are held.

Sec. 2. NRS 386.320 is hereby amended to read as follows:

386.320 1. ~~[If the total pupil enrollment in the school district for the immediately preceding school year is less than 1,000:~~

~~(a) The clerk and president of the board of trustees may each receive a salary of $85 for each board of trustees meeting they attend, not to exceed $170 a month.~~

~~(b) The other trustees may each receive a salary of $80 for each board of trustees meeting they attend, not to exceed $160 a month.~~

~~(c)]~~ ***Each member of the board of trustees of a school district in a county whose population is less than*** ~~*[100,000]*~~ ***20,000 must receive a salary of*** ~~*[$115 for each meeting of the board he attends, not to exceed $345]*~~ ***$250 per month.***

2. Each member of the board of trustees of a school district in a county whose population is 20,000 or more but less than 100,000 ~~*[or more]*~~ ***must receive a salary of*** ~~*[$2,000]*~~ ***$400 per month.***

3. Each member of the board of trustees of a school in a county whose population is 100,000 or more must receive a salary of $750 per month.

4. A member of the board of trustees of a school district who receives a salary pursuant to this section may:

(a) Donate all or a part of the monthly salary that he receives to a school within the school district or to the school district; or

(b) In lieu of making a donation after he receives the salary, request that all or a part of his monthly salary be paid directly to a school within the school district or to the school district.

~~*[4.]*~~ ***5.*** The board of trustees may hire a stenographer to take the minutes of the meetings of the board of trustees, and the stenographer may be paid a reasonable fee for each meeting attended.

~~[2. If the total pupil enrollment in the school district for the immediately preceding school year is 1,000 or more:~~

~~(a) The clerk and president of the board of trustees may each receive a salary of $85 for each board of trustees meeting they attend, not to exceed $510 a month.~~

~~(b) The other trustees may each receive a salary of $80 for each board of trustees meeting they attend, not to exceed $480 a month.~~

~~(c) The board of trustees may hire a stenographer to take the minutes of the meetings of the board of trustees, and the stenographer may be paid a reasonable fee for each meeting attended.]~~

Sec. 3. NRS 387.310 is hereby amended to read as follows:

387.310 1. Except as otherwise provided by the board of trustees, the clerk of the board shall draw all orders for the payment of money belonging to the school district. The orders must be listed on cumulative voucher sheets.

2. The board of trustees shall prescribe the procedures by which the orders must be approved and the cumulative voucher sheets signed. The procedures must provide:

(a) That the approval of the board of trustees is required before orders are paid unless a payment must be expedited for the school district to:

(1) Receive a discount or other savings which is related to the timeliness of payment;

(2) Avoid a service charge or other cost which is related to the timeliness of payment; or

(3) Abide by a purchase order, contract or other order for payment which has been approved by the board of trustees at a public meeting.

(b) For ratification by the board of trustees at its next regularly scheduled meeting of any payment that is made without the approval of the board pursuant to an exception set forth in paragraph (a).

3. When the orders have been approved and the cumulative voucher sheets have been signed in accordance with such procedures, the orders are valid vouchers in the hands of the county auditor for him to issue warrants on the county treasurer to be paid out of money belonging to the school district.

4. No order in favor of the board of trustees or any member thereof, except for salaries as ~~[authorized]~~ ***required*** by NRS 386.320 ~~[, authorized]~~ ***or*** travel expenses and subsistence ~~[of trustees or for services of any trustee as clerk of the board,]~~ ***as authorized by NRS 386.290,*** may be drawn.

5. No order for salary for any teacher may be drawn unless the teacher is included in the directory of teachers supplied to the clerk of the board of trustees pursuant to the provisions of NRS 391.045.

6. An order drawn by a clerk of a board of trustees pursuant to subsection 1 is void if not presented for payment within 1 year after the date of issuance.

7. Any order remaining unpaid after the expiration of 1 year, whether outstanding or uncalled for in the office of the county auditor, must be cancelled by the county auditor, who shall immediately notify the county treasurer of the cancellation. The county treasurer shall not pay a warrant presented for payment more than 1 year after the date of issuance of such an order. This subsection does not apply if the board of trustees establishes and administers a separate account pursuant to NRS 354.603.

Sec. 4. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall adopt a policy that sets forth procedures and conditions for a program to engage administrators employed by the school district at the district level in annual classroom instruction, observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators. The policy must require each administrator employed by the school district at the district level to:

(a) If he holds a license to teach, provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day in each school year; or

(b) If he does not hold a license to teach:

(1) Personally observe a classroom for at least one-half of a regularly scheduled full instructional day in each school year; or

(2) Otherwise participate in activities with pupils in the classroom in each school year, including, without limitation, serving as a guest speaker in the classroom, reading to pupils in elementary school and participating in career day.

2. A district level administrator may choose a school within the school district at which he will carry out the requirements of this section.

3. An administrator who provides instruction pursuant to paragraph (a) of subsection 1 must be assigned as a substitute teacher for the full instructional day in which he carries out the requirements of this section.

4. The provisions of this section do not apply to administrators who are employed by a school district to provide administrative service at the school level, including, without limitation, a principal or vice principal.

5. As used in this section, "core academic subject" means the core academic subjects designated pursuant to NRS 389.018.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded ~~[no]~~ ***not*** later than:

(a) December 1;

(b) February 1; and

(c) April 1,

➥ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. ***An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.***

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, he shall bring the matter to the employee's attention in a written document which is separate from the evaluation ~~[no]~~ ***not*** later than ~~[February 15]~~ ***March 1*** of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. ***An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.***

6. The evaluation of a probationary teacher or a postprobationary teacher must ~~[, if]~~ ***include, without limitation:***

(a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) If necessary, ~~[include]~~ recommendations for improvements in ~~[his]~~ ***the*** performance ~~[. A reasonable effort must be made to assist the teacher to correct any deficiencies noted in the evaluation.]~~ ***of the teacher;***

(f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

(g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. ***Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.***

Sec. 9. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that he believes may lead to demotion ~~[,]~~ ***or*** dismissal or ***may*** cause the employee not to be reemployed under the provisions of NRS 391.312, he shall:

(a) Except as otherwise provided in subsection ~~[2,]~~ ***3,*** bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to his demotion, dismissal or a refusal to reemploy him, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for his potential demotion, dismissal or a potential recommendation not to reemploy him; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➥ ***The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.***

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for him by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

~~[2.]~~ ***3.*** An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his employment will be terminated pursuant to NRS 391.3197. If by ~~[February 15]~~ ***March 1*** of the first or second year of his probationary period a probationary employee does not receive a written notice pursuant to subsection 4 of NRS 391.3125 of a potential decision not to reemploy him, he must receive an admonition before any such decision is made.

~~[3.]~~ ***4.*** A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h) and (p) of subsection 1 of NRS 391.312.

Sec. 10. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for two 1-year periods and has no right to employment after either of the two probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first and second school years of his probationary period, as appropriate, whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing on or before May 10 of the first or second year of his probationary period, as appropriate, of his acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify him in writing, in both the first and second years of his probationary period, no later than 45 days before his last day of work for the year under his contract whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. He must advise the board in writing within 10 days after the date of notification of his acceptance or rejection of reemployment for another year. Failure to advise the board of his acceptance of reemployment constitutes rejection of the contract.

3. A probationary employee who completes his 2-year probationary period and receives a notice of reemployment from the school district in the second year of his probationary period is entitled to be a postprobationary employee in the ensuing year of employment.

4. ~~[A]~~ ***If a*** probationary employee ~~[who receives an unsatisfactory evaluation]~~ ***receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him, the employee*** may request a supplemental evaluation by another administrator in

the school district selected by him and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in ~~[the]~~ ***this*** State. If a probationary employee has received during the first school year of his probationary period three evaluations which state that the employee's overall performance has been satisfactory, the superintendent of schools of the school district or his designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of his probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that he will not be reemployed for the second year of his probationary period or the ensuing school year, his employment ends on the last day of the current school year. The notice that he will not be reemployed must include a statement of the reasons for that decision.

6. A new employee or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 2-year probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an unsatisfactory evaluation during the first year of probation, the superintendent or his designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after either year of his probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

➥ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

7. An administrator who has completed his probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the additional probationary period, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

8. Before dismissal, the probationary employee is entitled to a hearing before a hearing officer which affords due process as set out in NRS 391.311 to 391.3196, inclusive.

Sec. 11. On or before February 1, 2008, the board of trustees of each school district shall submit a copy of the program to engage administrators in annual classroom instruction, observation and other activities adopted by the school district pursuant to section 4 of this act to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

Sec. 12. Notwithstanding the provisions of NRS 386.320, as amended by section 2 of this act, to the contrary, the salaries of the members of the board of trustees of a school district are not required to be increased pursuant to that section until ~~[July 1, 2008.]~~ **January 1, 2009. The board of trustees of a school district may, by affirmative vote, provide for the increase of salaries pursuant to NRS 386.320, as amended by section 2 of this act, before January 1, 2009.**

Sec. 13. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 14. This act becomes effective on July 1, 2007.

Assemblyman Segerblom moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 328.

Remarks by Assemblyman Segerblom.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 529, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 985 of the Assembly be concurred in.

PEGGY PIERCE	MAURICE WASHINGTON
SUSAN GERHARDT	JOYCE WOODHOUSE
JOE HARDY	JOSEPH HECK
Assembly Conference Committee	*Senate Conference Committee*

Assemblywoman Pierce moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 529.

Remarks by Assemblywoman Pierce.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 396, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 910, 978, 1002 and 1024 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 19, which is attached to and hereby made a part of this report.

WILLIAM HORNE	WARREN HARDY
FRANCIS ALLEN	MICHAEL SCHNEIDER
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Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA19.

ASSEMBLYMEN HORNE, ALLEN**, PARKS AND GERHARDT; JOINT SPONSORS: SENATORS HARDY, SCHNEIDER AND HECK**

AN ACT relating to common-interest communities; **revising provisions governing restrictions on the use of systems for obtaining solar or wind energy;** requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; **revising the provisions governing the regulation of certain streets in common-interest communities; revising provisions concerning voting rights exercised by delegates or representatives;** prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; **providing that a foreclosure on a unit is subject to an equity or right of redemption;** providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; ~~[revising the provisions governing the regulation of certain streets in certain common-interest communities;]~~ **requiring applicants for a certificate for the management of a common-interest community to post certain bonds;** making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) Sections 1 and ~~[41]~~ **43** of this bill specify ~~[how to determine if a restriction significantly decreases the efficiency or performance of such a system and places the burden on the property owner to show such a decrease.]~~ **the circumstances under which a specification regarding the color of such a system is enforceable.**

Section 3 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 3.5 of this bill: (1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 4 of this bill prohibits a common-interest community from restricting the operation of motorcycles. Section 5 of this bill prohibits a common-interest community from using information from radar guns as the basis for a fine or penalty.

Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) Sections 6.3, 13, 13.5, 15.5, 16.5 and 20.3 of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. Also, sections 6.7 and 20.7 of this bill provide that this form of voting may occur only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated. However, a master association which governs a time-share plan created pursuant to chapter 119A of NRS is excluded from these new provisions and is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares.

Existing law provides that the declaration of a common-interest community must contain certain information. (NRS 116.2105) Section 7.5 of this bill provides that the declaration must contain information concerning: (1) any restrictions on the ability of a unit's owner to rent or lease his unit; and (2) the specific obligations, duties and responsibilities of the association with respect to the maintenance, repair and replacement of specific common elements, specific limited common elements and other specific areas within the common-interest community.

Existing law sets forth the provisions governing the ability of a unit's owner to make alterations to his unit. (NRS 116.2111) Section 8.5 of this bill provides that an association may not unreasonably restrict, prohibit or withhold approval for a unit's owner to add shutters that change the appearance of a window, exterior or interior wall, roof or other surface which is not part of his unit, which is a common element or limited common element and which is adjoining or in close proximity to his unit.

Section 10 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 48 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 11 of this bill ~~[adds community managers of common-interest communities as persons whose health, safety and welfare may be threatened~~

~~by violations of a unit-owners' association's governing documents, authorizing the imposition of fines. (NRS 116.31031) This section also]~~ provides that **:** **(1)** a unit's owner must receive notice of a violation and possible fine ~~[, that]~~ **; (2) an association may not impose a fine against a unit's owner or tenant of a unit's owner for a vehicular violation of the governing documents committed by a person delivering goods to, or performing services for, a unit's owner or tenant of a unit's owner; (3)** a member of the executive board cannot participate in hearings on fines if he has not paid his assessments **;** and ~~[that]~~ **(4)** the association must provide written confirmation when a fine is paid. **(NRS 116.31031)**

Section 12 of this bill establishes priorities for the application of a unit owner's payments against assessments and fines, unless the unit's owner has stated in writing that no portion of the payment is to be applied against fines or costs related thereto. (NRS 116.310315)

Section 13 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034) ~~[Section 13 authorizes candidates for the executive board to be elected without balloting when the number of candidates is less than or equal to the number of members to be elected. (NRS 116.31034)]~~ Section 13 also adds items which candidates must disclose to units' owners in advance of the election, whether or not an election is to be held with balloting. (NRS 116.31034)

Section 14 of this bill requires that a declarant deliver to an association an ancillary audit of the association's money and audited financial statements from the date of the last audit until the date the declarant's control ends. (NRS 116.31038) Section 14 also requires the declarant to pay for the costs of the ancillary audit. (NRS 116.31038)

Sections 14, 23, 33-35 and 37-42 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.31038, 116.750, 116A.120, 116A.260 and 116A.420-116A.900)

Section 16 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083) ~~[Section 16 also provides that if the sole purpose of a meeting is for the executive board to meet in executive session under certain circumstances, notice need not be provided. (NRS 116.31083)]~~

Section 21 of this bill revises ~~[existing]~~ provisions relating to financial statements ~~[by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors]~~ for certain associations. (NRS 116.31144)

Section 22 of this bill permits the executive board to impose certain assessments for the purpose of funding a reserve without a vote of the units' owners under certain circumstances. (NRS 116.3115)

Section 23 of this bill establishes the criteria for evaluating the adequacy of the reserves of an association. (NRS 116.31152)

Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) Section 23.3 of this bill also requires certain signatures before money in the operating account of an association may be withdrawn.

Section 23.7 of this bill changes existing law to provide that the sale of a unit as a result of a foreclosure of a lien is subject to an equity or right of redemption. (NRS 116.31166)

Section 28 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175) Section 28 also provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 28 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 29 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) Section 29.5 of this bill provides that unless at the time a unit's owner purchases his unit, the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.

Section 30 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 31 of this bill ~~[permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 31 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 31]~~ prohibits a

common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Existing law provides that an association may charge certain fees for furnishing certain documents and certificates in connection with the resale of a unit. (NRS 116.4109) Section 31.5 of this bill provides that if the association enters into a contract or agreement with any person or entity to furnish such documents or certificates, the contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association itself may charge. Additionally, section 31.5 provides that an association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized, including, without limitation, any transaction fee, transfer fee or other similar fee.

Section 32 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a resident agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

Section 36 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. **In addition, section 36 requires the posting of bonds by community managers in an amount established by regulation, based on a sliding scale.** (NRS 116A.410)

~~[Section 44 of this bill excludes certain unit owners' associations from the definition of "business" for the purposes of requiring business licenses. (NRS 360.765)]~~

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

Section 1. NRS 111.239 is hereby amended to read as follows:

111.239 1. ~~[Any]~~ ***Except as otherwise provided in subsection 2, any*** covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

2. ~~*[The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.]*~~ ***A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:***

(a) In existence on July 1, 2007; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

3. For the purposes of this section ~~[, "unreasonably]~~ ***:***

(a) ~~*[“Significantly decreases the efficiency or performance of the system” means a decrease of 20 percent or more in the efficiency or performance of the system.]*~~ ***“Common-interest community” has the meaning ascribed to it in NRS 116.021.***

(b) ”Governing documents” has the meaning ascribed to it in NRS 116.049.

(c) ”Unit” has the meaning ascribed to it in NRS 116.093.

(d) ”Unreasonably restricts the use of a system for obtaining solar or wind energy” means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

Sec. 2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 5, inclusive, of this act.

Sec. 3. ***1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:***

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 3.5. ***1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.***

2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.

3. As used in this section, “public utility” has the meaning ascribed to it in NRS 704.020.

Sec. 4. ***1. The executive board of a common-interest community shall not, and the governing documents of a common-interest community must not, restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.***

2. The provisions of this section do not preclude the governing documents of a common-interest community from reasonably restricting the parking or storage of a motorcycle to the extent authorized by law.

3. As used in this section, "motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground which is required to be registered pursuant to chapter 482 of NRS.

Sec. 5. ***1. A member of the executive board of a common-interest community, a community manager for the common-interest community and any other representative of the association shall not use a radar gun or other device designed to gauge the speed of a vehicle for the purpose of imposing any fine or other penalty upon or taking any other action against a unit's owner or other person.***

2. The executive board of a common-interest community shall not impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

3. The governing documents of a common-interest community must not authorize the executive board or any other person to impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

Sec. 6. NRS 116.021 is hereby amended to read as follows:

116.021 ***1.*** "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

Sec. 6.3. **NRS 116.1201 is hereby amended to read as follows:**

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; ~~[or]~~

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government ~~[.]~~ ***, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; or***

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 6.7. **NRS 116.1201 is hereby amended to read as follows:**

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has

less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) ~~[Prohibit]~~ ***Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit*** a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; or

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 7. (Deleted by amendment.)

Sec. 7.5. **NRS 116.2105 is hereby amended to read as follows:**

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats or plans, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units_ ~~[.]~~ ***, including, without limitation, a clear and conspicuous statement written in plain English, in bold type and in a font that is easy to read indicating whether a unit's owner is prohibited from renting or leasing his unit and whether a***

unit's owner is required to secure or obtain any approval from the association in order to rent or lease his unit; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) ***A statement written in plain English:***

(1) Describing the provisions of NRS 116.3107 pertaining to the responsibility of the association for maintenance, repair and replacement of the common elements and the responsibility of each unit's owner for maintenance, repair and replacement of his unit; and

(2) Identifying and describing the specific obligations, duties and responsibilities of the association with respect to the maintenance, repair and replacement of specific common elements, specific limited common elements and other specific areas within the common-interest community and identifying and describing any limitations or restrictions on such obligations, duties and responsibilities of the association;

(n) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

~~[(n)]~~ ***(o)*** All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115 and 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 8. (Deleted by amendment.)

Sec. 8.5. **NRS 116.2111 is hereby amended to read as follows:**

116.2111 1. Except as otherwise provided in this section and subject to the provisions of the declaration and other provisions of law, a unit's owner:

(a) May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community;

(b) May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common-interest community, without permission of the association; and

(c) After acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

2. An association may not:

(a) Unreasonably restrict, prohibit or otherwise impede the lawful rights of a unit's owner to have reasonable access to his unit.

(b) Unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit:

(1) Improvements such as ramps, railings or elevators that are necessary to improve access to the unit for any occupant of the unit who has a disability;

(2) Additional locks to improve the security of the unit;

(3) Shutters to improve the security of the unit or to reduce the costs of energy for the unit; or

(4) A system that uses wind energy to reduce the costs of energy for the unit if the boundaries of the unit encompass 2 acres or more within the common-interest community.

(c) With regard to approving or disapproving any improvement or alteration made to a unit, act in violation of any state or federal law.

3. Any improvement or alteration made pursuant to subsection 2 that is visible from any other portion of the common-interest community must be installed, constructed or added in accordance with the procedures set forth in the governing documents of the association and must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

4. ***An association may not unreasonably restrict, prohibit or withhold approval for a unit's owner to add shutters, including, without limitation, rolling shutters, and change the appearance of a window, exterior or interior wall, roof or other surface which is not part of his unit, which is a common element or limited common element and which is adjoining or in close proximity to his unit. If a unit's owner adds shutters pursuant to this subsection, the unit's owner is responsible for the maintenance of the shutters. For the purposes of this subsection, a covenant, restriction or condition which does not unreasonably restrict the addition of shutters and which is contained in the governing documents of a common-interest community or a policy established by a common-interest community is enforceable so long as the covenant, condition or restriction was:***

(a) In existence on July 1, 2007; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

5. A unit's owner may not add to the unit a system that uses wind energy as described in subparagraph 4 of paragraph (b) of subsection 2 unless he first obtains the written consent of each owner of property within 300 feet of any boundary of the unit.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 11. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from

using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that ~~[(a)]~~ ***:***

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305 ~~[.]~~ ***; and***

(2) A fine may not be imposed against a unit's owner or a tenant or guest of a unit's owner for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or guest of the unit's owner.

➥ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners ~~[,]~~ or residents ~~[or community manager]~~ of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners ~~[,]~~ or residents ~~[or community manager]~~ of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the ***unit's owner and, if different, the*** person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the ***unit's owner and, if different, the*** person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

➥ ***For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is delivered to the address of the unit and, if different, to a mailing address specified by the unit's owner.***

3. The executive board must schedule the date, time and location for the hearing on the violation so that the ***unit's owner and, if different, the*** person

against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless ***the fine is paid before the hearing or unless*** the ***unit's owner and, if different, the*** person against whom the fine will be imposed:

(a) ~~[Pays the fine;~~

~~(b)]~~ Executes a written waiver of the right to the hearing; or

~~[(c)]~~ ***(b)*** Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. ***A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:***

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

8. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[8.]~~ ***9.*** Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the ***units' owners*** ~~*[,]*~~ ***or*** residents ~~*[or community manager]*~~ of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed $20, if the outstanding balance is less than $200.

(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.

(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.

(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.

(5) May not exceed $500, if the outstanding balance is $5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[9.]~~ ***10. Not later than 30 days after receiving payment in full of a fine, including any lawful interest and costs of collection, an association shall provide written confirmation to the person upon whom the fine was imposed that the fine and all related charges have been paid in full and that the fine is discharged.***

11. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 12. NRS 116.310315 is hereby amended to read as follows:

116.310315 If an association has imposed a fine against a unit's owner or a tenant or guest of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~[:]~~ ***shall:***

1. ~~[Shall, in]~~ ***In*** the books and records of the association, account for the fine separately from any assessment, fee or other charge; and

2. ~~[Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.]~~ ***Apply any payment received from a unit's owner without written instructions as to the application of the payment:***

(a) First to current or past due assessments; and

(b) Then the remainder of any payment to past due fines, including the costs of collecting any such fine, unless the unit's owner has stated in writing that no amount of the payment is to be applied toward the fines or toward the costs of collecting the fines.

Sec. 13. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing

documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ ***3*** years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association. ~~*[Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to this subsection, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then:*~~

~~*(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;*~~

~~*(b) The candidates so nominated shall be deemed to be duly elected to the executive board not later than 30 days after the date of closing of the prescribed period for nominations; and*~~

~~*(c) Units' owners will receive notification that the candidates so nominated have been elected to the executive board.]*~~

5. Each person whose name is placed on the ballot ~~*[who is nominated]*~~ as a candidate for a member of the executive board ~~*[pursuant to subsection 4]*~~ must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate ~~[has]~~ ***:***

(1) Has any unpaid and past due assessments or construction penalties that are required to be paid to the association ~~[.]~~ ***;***

(2) Has any unpaid fine imposed by the executive board that is 30 days or more past due; or

(3) After being provided notice and the opportunity for a hearing in accordance with the provisions of NRS 116.31031, has been found to have committed a violation of the governing documents that has not been cured.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot ~~*[or, in the event ballots are not prepared and mailed pursuant to subsection 4,]*~~ in the manner established ~~*[for distribution of ballots]*~~ in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. ~~[The]~~ ***Except as otherwise provided in*** ~~*[subsection 4,]*~~ ***NRS 116.31105, the*** election of any member of the executive board must be conducted by secret written ballot ~~[unless the declaration of the association provides that voting rights may be exercised by delegates or representatives~~

~~as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot.]~~ ***in the following manner:***

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 13.5. **NRS 116.31036 is hereby amended to read as follows:**

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. ~~[The]~~ ***Except as otherwise provided in NRS 116.31105, the*** removal of any member of the executive board must be conducted by secret written ballot ~~[unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS~~

~~116.31105. If the removal of a member of the executive board is conducted by secret written ballot:]~~ ***in the following manner:***

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 14. NRS 116.31038 is hereby amended to read as follows:

116.31038 In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the

bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of ~~[inception]~~ ***the last audit*** of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. ***The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.***

3. A complete study of the reserves of the association, conducted by a person who ~~[holds a permit to conduct such a study issued]~~ ***is registered as a reserve study specialist*** pursuant to chapter 116A of NRS. At the time the control of the declarant ends, he shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which he has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 15. NRS 116.310395 is hereby amended to read as follows:

116.310395 1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.

2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first ~~[sale]~~ ***close of escrow*** of a unit.

Sec. 15.5. **NRS 116.3108 is hereby amended to read as follows:**

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the ~~[units']~~ owners ***of time shares*** will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any

other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 16. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every ~~[90]~~ ***quarter, and not less than once every 100*** days.

2. Except in an emergency ~~*[as otherwise provided in subsection 3 or 4]*~~ or unless the bylaws of an association require a longer period of notice, the

secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In ~~*[Except as otherwise provided in subsection 4, in]*~~ an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. ~~*[If the sole purpose of a meeting of the executive board is to meet in executive session pursuant to subsection 4 of NRS 116.31085, notice of the meeting pursuant to this section is not required.*~~

~~*5.]*~~ The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. ~~*[6.]*~~ The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. ~~*[7.]*~~ At least once every ~~[90]~~ ***quarter, and not less than once every 100*** days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. ~~[8.]~~ The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

8. ~~[9.]~~ Except as otherwise provided in subsection 9 ~~[10]~~ and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. ~~[10.]~~ The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. ~~[11.]~~ The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. ~~[12.]~~ A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. ~~[13.]~~ As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5. ~~[6.]~~

Sec. 16.5. **NRS 116.311 is hereby amended to read as follows:**

116.311 1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to that unit without protest made promptly to the person presiding over the meeting by any of the other owners of the unit.

2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

3. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed.

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.

4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.

5. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association ***.*** ~~[unless]~~ ***A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if*** the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.

8. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 20.3. **NRS 116.31105 is hereby amended to read as follows:**

116.31105 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[.]~~ ***except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.***

2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[.]~~ ***except that, in the election or removal of a***

member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

3. ***In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.***

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

~~[4.]~~ ***5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.***

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

~~[5.]~~ ***7.*** When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

Sec. 20.7. **NRS 116.31105 is hereby amended to read as follows:**

116.31105 1. ~~[If]~~ ***Except as otherwise provided in subsection 8, if*** the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the

executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

2. ~~[In]~~ ***Except as otherwise provided in subsection 8, in*** addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

3. In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

7. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot

before those secret written ballots have been opened and counted at a meeting called for that purpose.

8. Except as otherwise provided in subsection 9, the voting rights of the units' owners in the association for a common-interest community may be exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.

9. The provisions of subsection 8 do not apply to:

(a) A time-share plan created pursuant to chapter 119A of NRS which is governed by a master association; or

(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.

Sec. 21. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by ~~[an independent certified public accountant]~~ ***a person deemed qualified by the association to conduct such an audit*** at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by ~~[an]~~ ***:***

(a) A person deemed qualified by the association to conduct such an audit if the annual budget of the association is less than $75,000; or

(b) An independent certified public accountant ***if the annual budget of the association is $75,000 or more,***

➥ if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of ***the*** financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ ***; and***

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year . ~~*[; and*~~

~~*(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.]*~~

Sec. 22. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. ***Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest***

community if such assessments are made pursuant to findings contained in a study of the reserves of the association ~~*[prepared by a person who is registered as a reserve study specialist pursuant to chapter 116A of]*~~ ***conducted pursuant to NRS*** ~~*[,]*~~ ***116.31152 and an annual review of the results of that study pertaining to whether the amount of the reserves available for the next 5 years is sufficient to repair, replace and restore the major components of the common elements designated in the funding plan conducted.***

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 23. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements ~~[;]~~ **.**

(b) At least annually, review the results of that study to determine whether those reserves are sufficient ~~[; and]~~ **. *The reserves shall be deemed adequately funded if*** ~~*[:*~~

~~*(1) The amount of the reserves is equal to or greater than the amount specified in the funding plan; or*~~

~~*(2) The]*~~ ***the amount of reserves available for the next 5 years is sufficient to repair, replace and restore the major components of the common elements designated in the funding plan.***

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who ~~[holds a permit issued]~~ ***is registered as a reserve study specialist*** pursuant to chapter 116A of NRS ~~[.]~~ ***, unless the association contains 20 or fewer units and is located in a county whose population is 45,000 or less, and then the study must be conducted by a person deemed qualified by the executive board to conduct such a study.***

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 23.3. **NRS 116.31153 is hereby amended to read as follows:**

116.31153 ***1.*** Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

Sec. 23.7. **NRS 116.31166 is hereby amended to read as follows:**

116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:

(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

➥ are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 ~~[vests in the purchaser the title of the unit's owner without]~~ ***is subject to an*** equity or right of redemption ~~[.]~~ ***as provided in this section.***

4. Upon a sale of a unit:

(a) The purchaser acquires all the right, title, interest and claim of the unit's owner thereto; and

(b) The purchaser must receive a certificate of sale in recordable form which must state:

(1) The description of the unit sold;

(2) The price bid for the unit sold; and

(3) That the unit is subject to redemption within 120 days after the date of the sale.

5. A copy of the certificate of sale must be posted on the door of the unit, with a copy mailed first class, postage prepaid, to the addresses of the unit's owner and persons entitled to redeem as indicated in the records of the association and the last known address as shown in the records of the county.

6. A person who purchases a unit at a sale pursuant to this section may not transfer ownership of the unit to a person other than a unit's owner or redemptioner during the redemption period.

7. A unit sold subject to redemption, as provided in this section, may be redeemed within 120 days after the date of the sale in the manner

hereinafter provided by the following persons or their successors in interest:

(a) The unit's owner or a successor in interest with a recorded interest in the whole or any part of the unit.

(b) A creditor having a security interest on the unit sold or on some share or part thereof.

8. To redeem a unit purchased at a sale pursuant to this section, the unit's owner or redemptioner must pay to the purchaser:

(a) The amount the purchaser paid for the unit at the sale;

(b) The amount of the fee for recording the certificate of sale; and

(c) The amount paid by the purchaser for property taxes and assessments, including, without limitation, assessments due under any applicable declaration, any penalties, interest and costs on the unit, and any applicable real property transfer taxes.

9. Written notice of redemption in recordable form must be given to the redemptioner by the purchaser at the time of payment.

10. If the property is not redeemed within the 120-day period, then the purchaser or his assignee is entitled to a deed to the property from the association.

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; ~~[and]~~

(c) A contract between the association and an attorney ~~[.]~~ ***; and***

(d) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation

involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 29. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide ***financing,*** goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing ***financing,*** goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any ***financing,*** goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 29.5. **NRS 116.335 is hereby amended to read as follows:**

116.335 1. ~~[Except as otherwise provided in]~~ ***Unless, at the time a unit's owner purchased his unit,*** the declaration ~~[,]~~ ***prohibited the unit's owner from renting or leasing his unit, the association may not prohibit the unit's owner from renting or leasing his unit.***

2. Unless, at the time a unit's owner purchased his unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, an association may not require ~~[a]~~ ***the*** unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.

~~[2.]~~ ***3.*** The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and

which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

Sec. 30. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. ***An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.***

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 31. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or

device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[~~The~~]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the ~~[~~.~~]~~

~~*(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or*~~

~~*(b) The]*~~ parking or storage of ***inoperable vehicles,*** recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 31.5. **NRS 116.4109 is hereby amended to read as follows:**

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser

before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. ***If the association enters into a contract or agreement with any person or entity to furnish the documents and certificate pursuant to subsection 3:***

(a) The contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association may charge pursuant to subsection 4; and

(b) The person or entity shall not charge or attempt to charge any such fee.

6. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

~~[6.]~~ ***7.*** Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

8. The association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized pursuant to this section, including, without limitation, any transaction fee, transfer fee or other similar fee.

Sec. 32. NRS 116.411 is hereby amended to read as follows:

116.411 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~ ***, 3 and 4,*** a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:

(a) The legal right to conduct business in this State;

(b) A resident agent in this State pursuant to subsection 1 of NRS 14.020; and

(c) Consented to the jurisdiction of the courts of this State by:

(1) Maintaining a physical presence in this State; or

(2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.

Sec. 33. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who ~~[holds a permit to conduct a study of the reserves of an association issued]~~ ***is registered as a reserve study specialist, or who conducts a study of reserves,*** pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 34. NRS 116A.120 is hereby amended to read as follows:

116A.120 ~~["Permit"]~~ ***"Registration"*** means ~~[a permit]~~ ***registration*** to conduct a study of the reserves of an association pursuant to NRS 116.31152 ~~[issued by]~~ ***with*** the Division pursuant to this chapter.

Sec. 35. NRS 116A.260 is hereby amended to read as follows:

116A.260 The Division shall maintain in each district office a public docket or other record in which it shall record, from time to time as made:

1. The rulings or decisions upon all complaints filed with that district office.

2. All investigations instituted by that district office in the first instance, upon or in connection with which any hearing has been held, or in which the person charged has made no defense.

3. Denials of applications made to that district office for examination ***,*** ***registration*** or issuance of a certificate ***.*** ~~[or permit.]~~

Sec. 36. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. ***The regulations must include, without limitation, provisions that:***

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association; and

(II) Has management experience determined to be sufficient by the executive board of the association making the offer in sub-subparagraph (I). The executive board must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association which offered him employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) ***Must require an applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.***

(c) May require applicants to pass an examination in order to obtain a certificate ~~[.]~~ ***other than a temporary certificate described in paragraph (a).*** If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

~~[(c)]~~ ***(d)*** May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(d)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(e)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 37. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person ~~[holds a permit.]~~ ***registers with the Division on a form provided by the Division.***

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists **.** ~~[who hold permits.]~~

3. The Division may investigate any reserve study specialist ~~[who holds a permit]~~ to ensure that the reserve study specialist is complying with the provisions of this chapter and chapter 116 of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist ~~[who holds a permit]~~ has violated any provision of this chapter or chapter 116 of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to ~~[issue a permit to]~~ ***accept the registration of*** a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the ~~[permit]~~ ***registration*** of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

7. A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.

Sec. 38. NRS 116A.430 is hereby amended to read as follows:

116A.430 1. The Commission shall by regulation provide for the ~~[issuance]~~ ***registration*** by the Division of ~~[permits to]~~ reserve study specialists. The regulations:

(a) Must establish the qualifications for ~~[the issuance of such a permit,]~~ ***registration,*** including, without limitation, the education and experience required ~~[to obtain such a permit.]~~ ***for registration.***

(b) May require applicants to pass an examination ~~[in order to obtain a permit.]~~ ***for registration.*** If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(d) Must establish the grounds for initiating disciplinary action against a person ~~[to whom a permit has been issued,]~~ ***who has registered,*** including, without limitation, the grounds for placing conditions, limitations or restrictions on ~~[a permit]~~ ***registration*** and for the suspension or revocation of ~~[a permit.]~~ ***registration.***

(e) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for ~~[the issuance of a permit]~~ ***registration*** in an amount not to exceed the administrative costs of ~~[issuing the permit.]~~ ***registration.***

Sec. 39. NRS 116A.440 is hereby amended to read as follows:

116A.440 1. An applicant for a certificate or ~~[permit]~~ ***registration*** shall submit to the Division:

(a) The social security number of the applicant; and

(b) The statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for ***registration or*** the issuance of the certificate ***;*** ~~[or permit;]~~ or

(b) A separate form prescribed by the Division.

3. A certificate ~~[or permit]~~ may not be issued ***and an application for registration may not be accepted*** if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount

owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 40. NRS 116A.450 is hereby amended to read as follows:

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to ***a person who is registered or*** the holder of a certificate ***,*** ~~[or permit,]~~ the Division shall deem the ***registration or*** certificate ~~[or permit]~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a ***registration or*** certificate ~~[or permit]~~ that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 41. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a ***registration or*** certificate ~~[or permit]~~ by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a ***registration or*** certificate ~~[or permit]~~ by the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ as authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto against the ***person who is registered or the*** holder of the certificate ***.*** ~~[or permit.]~~

Sec. 42. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a ***registration or*** certificate ~~[or permit]~~ is required pursuant to this chapter or chapter 116 of NRS, or any regulation adopted pursuant thereto, if the person ***has not registered or*** does not hold the required certificate ~~[or permit]~~ or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 43. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining solar or wind energy on his property.

2. ~~[Any]~~ ***Except as otherwise provided in subsection 3, any*** covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

3. ~~*[The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.]*~~ ***A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community***

specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:

(a) In existence on July 1, 2007; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

4. For the purposes of this section ~~[, "unreasonably]~~ ***:***

(a) ~~*["Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.]*~~ ***"Common-interest community" has the meaning ascribed to it in NRS 116.021.***

(b) ***"Governing documents" has the meaning ascribed to it in NRS 116.049.***

(c) "Unit" has the meaning ascribed to it in NRS 116.093.

(d) "Unreasonably restricting the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

Sec. 44. ~~[NRS 360.765 is hereby amended to read as follows:~~

~~360.765 1. Except as otherwise provided in subsection 2, "business" means:~~

~~(a) Any person, except a natural person, that performs a service or engages in a trade for profit; or~~

~~(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity.~~

~~2. The term does not include:~~

~~(a) A governmental entity.~~

~~(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).~~

~~(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.~~

~~(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.~~

~~(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.~~

~~*(f) A unit-owners' association organized pursuant to NRS 116.3101 as a nonprofit corporation, trust or partnership.]~~ **(Deleted by amendment.)**

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 48. The amendatory provisions of section 10 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.

Sec. 49. 1. **This section becomes effective upon passage and approval.**

2. Section 36 of this act becomes effective:

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

(b) On January 1, 2008, for all other purposes.

3. ~~[This]~~ **Section 32 of this act becomes effective on July 1, 2007.**

4. Sections 1 to 6.3, inclusive, 7 to 20.3, inclusive, 21 to 35, inclusive, and 37 to 48, inclusive, of this act ~~[becomes]~~ **become** effective on October 1, 2007.

~~[2.]~~ **5. Sections 6.7 and 20.7 of this act become effective on October 1, 2009.**

6. Sections 39 and 40 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Horne moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 396.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 196.

The following Senate amendment was read:

Amendment No. 1153.

AN ACT relating to state financial administration; exempting from the limitation on the proposed expenditures of the Executive Department of the State Government any expenditures for the purpose of reducing an unfunded accrued liability of the State ~~[.]~~ **Retirees' Health and Welfare Benefits Fund;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Chief of the Budget Division of the Department of Administration to prepare a proposed budget for the Executive Department of the State Government. (NRS 353.185) Under existing law, the proposed total expenditures in this proposed budget, excluding proposed expenditures for construction, cannot exceed a certain amount. (NRS 353.213) This bill provides that expenditures to reduce any unfunded accrued liability of the State **Retirees' Health and Welfare Benefits Fund** are excluded from the limitation on proposed total expenditures.

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

Section 1. NRS 353.213 is hereby amended to read as follows:

353.213 1. In preparing the proposed budget for the Executive Department of the State Government for each biennium, the Chief shall not exceed the limit upon total proposed expenditures for purposes other than construction ***and reducing any unfunded accrued liability of the State Retirees' Health and Welfare Benefits Fund created by section 4 of Senate Bill No. 547 of the 74th Session of the Nevada Legislature*** from the State General Fund calculated pursuant to this section. The base for each biennium is the total expenditure, for the purposes limited, from the State General Fund appropriated and authorized by the Legislature for the biennium beginning on July 1, 1975.

2. The limit for each biennium is calculated as follows:

(a) The amount of expenditure constituting the base is multiplied by the percentage of change in population for the current biennium from the population on July 1, 1974, and this product is added to or subtracted from the amount of expenditure constituting the base.

(b) The amount calculated pursuant to paragraph (a) is multiplied by the percentage of inflation or deflation, and this product is added to or subtracted from the amount calculated pursuant to paragraph (a).

(c) Subject to the limitations of this paragraph:

(1) If the amount resulting from the calculations pursuant to paragraphs (a) and (b) represents a net increase over the base biennium, the Chief may increase the proposed expenditure accordingly.

(2) If the amount represents a net decrease, the Chief shall decrease the proposed expenditure accordingly.

(3) If the amount is the same as in the base biennium, that amount is the limit of permissible proposed expenditure.

➥ The proposed budget for each fiscal year of the biennium must provide for a reserve of not less than 5 percent nor more than 10 percent of the total of all proposed appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year.

3. The revised estimate of population for the State issued by the United States Department of Commerce as of July 1, 1974, must be used, and the Governor shall certify the percentage of increase or decrease in population for each succeeding biennium. The Consumer Price Index published by the United States Department of Labor for July preceding each biennium must be used in determining the percentage of inflation or deflation.

4. The Chief may exceed the limit to the extent necessary to meet situations in which there is a threat to life or property.

5. As used in this section, "unfunded accrued liability" means a liability with an actuarially determined value which exceeds the value of the assets in the fund from which payments are made to discharge the liability.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 196.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 404, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 1082 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 36, which is attached to and hereby made a part of this report.

MOISES DENIS	MAURICE WASHINGTON
BONNIE PARNELL	BERNICE MATHEWS
JOE HARDY	DENNIS NOLAN
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA36.

AN ACT relating to education; revising provisions governing homeschooled children; requiring the board of trustees of each school district to post certain information concerning examinations on its Internet website and ensure that homeschooled children have notice of the website; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, compulsory attendance in public school is required of children between the ages of 7 and 17 years. (NRS 392.040) Compulsory attendance is excused if satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board of Education. (NRS 392.070) Sections ~~[3 and]~~ 5 **and 7** of this bill excuse compulsory attendance if a child is enrolled in a private school or if a notice of intent to homeschool the child is filed with the superintendent of schools of the school district in which the child resides. Sections ~~[1 and 5]~~ **2 and 7** of this bill authorize the board of trustees of a school district or the governing body of a charter school, as

applicable, to require a birth certificate or other documentation to prove the identity of the homeschooled child who wishes to participate in certain activities and classes offered by the public schools in this State and requires such proof under certain circumstances.

Section ~~[3]~~ **5** of this bill sets forth requirements concerning a notice of intent to homeschool and establishes certain rights for a child that is being homeschooled and the parents of that child. **Section 5.5 of this bill sets forth requirements concerning notice of intent of a homeschooled child to participate in programs and activities, which must be filed before a homeschooled child may participate in certain classes, activities and programs in a public school or through a school district, or through the Nevada Interscholastic Activities Association.**

Under existing law, the State Board of Education is required to prescribe the courses of study required for promotion to high school. (NRS 392.033) Section ~~[4]~~ **6** of this bill prescribes the information that must be provided by a homeschooled child who wishes to enroll in a public high school to demonstrate competency in those courses of study or successful completion of those courses.

Section ~~[2.5]~~ **4** of this bill requires the board of trustees of each school district to maintain on its Internet website pertinent information concerning the examinations available to children in the school district. Section ~~[3]~~ **5** of this bill requires each school district to ensure that homeschooled children who reside in the school district have adequate notice of the availability of the website.

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

Section 1. **NRS 386.430 is hereby amended to read as follows:**

386.430 1. The Nevada Interscholastic Activities Association shall adopt rules and regulations in the manner provided for state agencies by chapter 233B of NRS, as may be necessary to carry out the provisions of NRS 386.420 to 386.470, inclusive. The regulations must include provisions governing the eligibility and participation of homeschooled children in interscholastic activities and events. ***In addition to the regulations governing eligibility, a homeschooled child who wishes to participate must have on file with the school district in which he resides a current notice of intent of a homeschooled child to participate in programs and activities pursuant to section 5.5 of this act.***

2. If the Nevada Interscholastic Activities Association intends to adopt, repeal or amend a policy, rule or regulation concerning or affecting homeschooled children, the Association shall consult with the Northern Nevada Homeschool Advisory Council and the Southern Nevada Homeschool Advisory Council, or their successor organizations, to provide those Councils with a reasonable opportunity to submit data, opinions or arguments, orally or in writing, concerning the proposal or change. The

Association shall consider all written and oral submissions respecting the proposal or change before taking final action.

Sec. 1.5. **NRS 386.462 is hereby amended to read as follows:**

386.462 1. A homeschooled child must be allowed to participate in interscholastic activities and events in accordance with the regulations adopted by the Nevada Interscholastic Activities Association pursuant to NRS 386.430 ~~[.]~~ ***if a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to section 5.5 of this act.***

2. The provisions of NRS 386.420 to 386.470, inclusive, and the regulations adopted pursuant thereto that apply to pupils enrolled in public schools who participate in interscholastic activities and events apply in the same manner to homeschooled children who participate in interscholastic activities and events, including, without limitation, provisions governing:

(a) Eligibility and qualifications for participation;
(b) Fees for participation;
(c) Insurance;
(d) Transportation;
(e) Requirements of physical examination;
(f) Responsibilities of participants;
(g) Schedules of events;
(h) Safety and welfare of participants;
(i) Eligibility for awards, trophies and medals;
(j) Conduct of behavior and performance of participants; and
(k) Disciplinary procedures.

~~[Section 1.]~~ ***Sec. 2.*** NRS 386.580 is hereby amended to read as follows:

386.580 1. An application for enrollment in a charter school may be submitted to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for

enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school that is dedicated to providing educational programs and opportunities to pupils who are at risk may enroll a child who:

(a) Is a sibling of a pupil who is currently enrolled in the charter school; or

(b) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

➥ If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection 7, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

(a) Race;

(b) Gender;

(c) Religion;

(d) Ethnicity; or

(e) Disability,

➥ of a pupil.

4. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his school or home school or participate in an extracurricular activity at the charter school if:

(a) Space for the child in the class or extracurricular activity is available; ~~[and]~~

(b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity ~~[.]~~ ***; and***

(c) The child is a homeschooled child, a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to section 5.5 of this act.

➥ If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

6. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection 5 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of services to the child.

7. ***The governing body of a charter school may, before authorizing a homeschooled child to participate in a class or extracurricular activity pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.***

8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

(a) With disabilities;

(b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or

(c) Who are at risk.

➥ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil may enroll in a program of distance education only if the pupil satisfies the requirements of any other applicable statute and the pupil:

(a) Is participating in a program for pupils at risk of dropping out of high school pursuant to NRS 388.537;

(b) Is participating in a program of independent study pursuant to NRS 389.155;

(c) Is enrolled in a public school that does not offer certain advanced or specialized courses that the pupil desires to attend;

(d) Has a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050;

(e) Would otherwise be excused from compulsory attendance pursuant to NRS 392.080;

(f) Is otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675;

(g) Is otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that the circumstances warrant enrollment for the pupil; or

(h) Is otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that the circumstances warrant enrollment for the pupil.

2. In addition to the eligibility for enrollment set forth in subsection 1, a pupil must satisfy the qualifications and conditions for enrollment in a program of distance education adopted by the State Board pursuant to NRS 388.874.

3. A child who is exempt from compulsory attendance and ~~[receiving equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070]~~ ***is enrolled in a private school pursuant to chapter 394 of NRS or is being homeschooled*** is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether he is otherwise eligible for enrollment pursuant to subsection 1.

4. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to 62F.140, inclusive, and 392.251 to 392.271, inclusive.

5. If a pupil is eligible for enrollment in a program of distance education pursuant to paragraph (c) of subsection 1, he may enroll in the program of distance education only to take those advanced or specialized courses that are not offered at the public school he otherwise attends.

~~[Sec. 2.5.]~~ ***Sec. 4.*** Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

The board of trustees of each school district shall maintain on its Internet website, and shall post in a timely manner, all pertinent information concerning the examinations available to children who reside in the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations. The examinations posted must include, without limitation:

1. The high school proficiency examination administered pursuant to NRS 389.015; and

2. All college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test,

the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test.

Sec. 4.5. **Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 5.5 of this act.**

~~[Sec. 3.]~~ ***Sec. 5.*** ~~[Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The ~~[initial]~~ notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance.

4. ~~[A subsequent notice of intent to homeschool must be filed annually with the school district, beginning with the school year immediately following the school year in which the initial notice of intent to homeschool was filed.]~~ If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) ~~[If the notice is the initial notice of intent to homeschool, an]~~ An educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

(f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

6. Each superintendent of schools of a school district shall accept notice of intent to homeschool that is filed with him pursuant to this section and meets the requirements of subsection 5, and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled . [for the duration of the school year.] The written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. [A written acknowledgment that a child is being homeschooled is effective for 1 school year. The school district shall provide a written acknowledgment that a child is being homeschooled for every school year for the which the parent demonstrates compliance with this section.] The school district shall retain a copy of the written acknowledgment for not less than 15 years. The written acknowledgment may be retained in electronic format.

8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if he is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

11. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test. Each school district shall ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such

examinations on the Internet website of the school district maintained pursuant to section ~~[2.5]~~ 4 of this act.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the ~~[initial]~~ notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of ~~[an initial]~~ a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his child based on religious preference unless it is:

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means of furthering that compelling governmental interest.

14. As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

Sec. 5.5. 1. The Department shall develop a standard form for the notice of intent of a homeschooled child to participate in programs and activities. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents of homeschooled children.

2. The notice developed pursuant to subsection 1 must include the information required in the notice of intent to homeschool pursuant to section 5 of this act, excluding the educational plan for the homeschooled child.

3. If a homeschooled child wishes to participate in classes, activities, programs, sports or interscholastic activities and events at a public school or through a school district, or through the Nevada Interscholastic Activities Association, the parent of the child must file a current notice of intent to participate with the school district in which the child resides.

~~[Sec. 4.]~~ ***Sec. 6.*** NRS 392.033 is hereby amended to read as follows:

392.033 1. The State Board shall adopt regulations which prescribe the courses of study required for promotion to high school, which may include the credits to be earned.

2. The board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits

required for promotion. The board of trustees of the school district in which the pupil is enrolled may provide programs to complete the courses of study required for promotion to high school.

3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this State or from a school outside of this State.

4. A homeschooled child who enrolls in a public high school shall, upon initial enrollment:

(a) Provide documentation sufficient to prove that the child has successfully completed the courses of study required for promotion to high school through an accredited program of homeschool study recognized by the board of trustees of the school district;

(b) Demonstrate proficiency in the courses of study required for promotion to high school through an examination prescribed by the board of trustees of the school district; or

(c) Provide other proof satisfactory to the board of trustees of the school district demonstrating competency in the courses of study required for promotion to high school.

~~[Sec. 5.]~~ ***Sec. 7.*** NRS 392.070 is hereby amended to read as follows:

392.070 1. Attendance ***of a child*** required by the provisions of NRS 392.040 must be excused when ~~[satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board.]~~ ***:***

(a) The child is enrolled in a private school pursuant to chapter 394 of NRS; or

(b) A parent of the child chooses to provide education to the child and files a notice of intent to homeschool the child with the superintendent of schools of the school district in which the child resides in accordance with section ~~[3]~~ 5 of this act.

2. The board of trustees of each school district shall provide programs of special education and related services for homeschooled children. The programs of special education and related services required by this section must be made available:

(a) Only if a child would otherwise be eligible for participation in programs of special education and related services pursuant to NRS 388.440 to 388.520, inclusive;

(b) In the same manner that the board of trustees provides, as required by 20 U.S.C. § 1412, for the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians; and

(c) In accordance with the same requirements set forth in 20 U.S.C. § 1412 which relate to the participation of pupils with disabilities who are

enrolled in private schools within the school district voluntarily by their parents or legal guardians.

3. Except as otherwise provided in subsection 2 for programs of special education and related services, upon the request of a parent or legal guardian of a child who is enrolled in a private school or a parent or legal guardian of a homeschooled child, the board of trustees of the school district in which the child resides shall authorize the child to participate in ~~[a class that is not available to the child at the private school or home school or to participate in an extracurricular activity,]~~ ***any classes and extracurricular activities,*** excluding sports, at a public school within the school district if:

(a) Space for the child in the class or extracurricular activity is available; ~~[and]~~

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the child is qualified to participate in the class or extracurricular activity ~~[.]~~ ***; and***

(c) The child is a homeschooled child, a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district for the current school year pursuant to section 5.5 of this act.

➥ If the board of trustees of a school district authorizes a child to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the child to attend the class or activity. A homeschooled child must be allowed to participate in interscholastic activities and events governed by ~~[an association]~~ ***the Nevada Interscholastic Activities Association*** pursuant to NRS 386.420 to 386.470, inclusive, and interscholastic activities and events, including sports, pursuant to subsection 5.

4. The board of trustees of a school district may revoke its approval for a pupil to participate in a class or extracurricular activity at a public school pursuant to subsection 3 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees. If the board of trustees revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

5. In addition to those interscholastic activities and events governed by ~~[an association]~~ ***the Nevada Interscholastic Activities Association*** pursuant to NRS 386.420 to 386.470, inclusive, ***a*** homeschooled ~~[children]~~ ***child*** must be allowed to participate in interscholastic activities and events, including sports ~~[.]~~ ***, if a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district for the current school year pursuant to section 5.5 of this act.*** A homeschooled child who participates in interscholastic activities and events at a public school pursuant to this subsection must participate within the school district of the child's residence through the public school which the child is otherwise zoned to attend. Any rules or regulations that apply to pupils

enrolled in public schools who participate in interscholastic activities and events, including sports, apply in the same manner to homeschooled children who participate in interscholastic activities and events, including, without limitation, provisions governing:

(a) Eligibility and qualifications for participation;

(b) Fees for participation;

(c) Insurance;

(d) Transportation;

(e) Requirements of physical examination;

(f) Responsibilities of participants;

(g) Schedules of events;

(h) Safety and welfare of participants;

(i) Eligibility for awards, trophies and medals;

(j) Conduct of behavior and performance of participants; and

(k) Disciplinary procedures.

6. If a homeschooled child participates in interscholastic activities and events pursuant to subsection 5:

(a) No challenge may be brought by ~~[an association,]~~ ***the Association,*** a school district, a public school or a private school, a parent or guardian of a pupil enrolled in a public school or a private school, a pupil enrolled in a public school or a private school, or any other entity or person claiming that an interscholastic activity or event is invalid because the homeschooled child is allowed to participate.

(b) Neither the school district nor a public school may prescribe any regulations, rules, policies, procedures or requirements governing the eligibility or participation of the homeschooled child that are more restrictive than the provisions governing the eligibility and participation of pupils enrolled in public schools.

7. The programs of special education and related services required by subsection 2 may be offered at a public school or another location that is appropriate.

8. ***The board of trustees of a school district:***

(a) May, before providing programs of special education and related services to a homeschooled child pursuant to subsection 2, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

(b) May, before authorizing a homeschooled child to participate in a class or extracurricular activity, excluding sports, pursuant to subsection 3, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

(c) Shall, before allowing a homeschooled child to participate in interscholastic activities and events governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, and

interscholastic activities and events pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

9. The Department ~~[may]~~ ***shall*** adopt such regulations as are necessary for the boards of trustees of school districts to provide the programs of special education and related services required by subsection 2.

~~[9.]~~ ***10.*** As used in this section, "related services" has the meaning ascribed to it in 20 U.S.C. § ~~[1401(22).]~~ ***1401.***

~~[Sec. 6.]~~ ***Sec. 8.*** NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ ***Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;*** or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ ***Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;*** or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

➥ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of his suspension or expulsion, the pupil must:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ ***Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;*** or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

~~[Sec. 7.]~~ ***Sec. 9.*** The regulations adopted by the State Board of Education which are codified as NAC 392.011 to 392.065, inclusive, are hereby declared void. In preparing the supplements to the Nevada Administrative Code on or after July 1, 2007, the Legislative Counsel shall remove those regulations.

~~[Sec. 8.]~~ ***Sec. 10.*** This act becomes effective on July 1, 2007.

Assemblyman Denis moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 404.

Remarks by Assemblyman Denis.

Motion carried by a constitutional majority.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 4:35 p.m.

ASSEMBLY IN SESSION

At 4:42 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 577, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 577.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Senate Bill No. 577:

YEAS—42.

NAYS—None.

Senate Bill No. 577 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, 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: Do pass.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 443, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 238.

Bill read third time.

Roll call on Senate Bill No. 238:

YEAS—42.

NAYS—None.

Senate Bill No. 238 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 443.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1163.

AN ACT making various appropriations; and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby created in the State General Fund a disbursement account to be administered by the Legislative Counsel Bureau.

2. Money appropriated to the disbursement account for the use of a specific entity must be allocated to that entity from time to time upon the submittal to the Legislative Counsel Bureau of an appropriate request for an allocation that is based on costs incurred.

Sec. 2. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the Nevada Cancer Institute the sum of $5,000,000 for expansion of laboratory and clinical space.

2. Upon acceptance of the money appropriated by subsection 1, the Nevada Cancer Institute shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Nevada Cancer Institute through December 1, 2008;

(b) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2010, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Nevada Cancer Institute through December 1, 2010;

(c) Prepare and transmit a final report to the Interim Finance Committee on or before September 16, 2011, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Nevada Cancer Institute through June 30, 2011; and

(d) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Nevada Cancer Institute, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 3. Any remaining balance of the appropriation made by section 2 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the Nevada Cancer Institute for research and community outreach and education for the Fiscal Year 2007-2008, the sum of $2,500,000.

2. Upon acceptance of the money appropriated by subsection 1, the Nevada Cancer Institute shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2007, that describes each expenditure made from the money appropriated by subsection 1, from the date on which the money was received by the Nevada Cancer Institute through December 1, 2007;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 19, 2008, that describes each expenditure made from the money appropriated by subsection 1, from the date on which the money was received by the Nevada Cancer Institute through June 30, 2008; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Nevada Cancer Institute, regardless of their form or location, that the Legislative Auditor

deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 5. Any remaining balance of the appropriation made by section 4 of this act must not be committed for expenditure after June 30, 2008, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008.

Sec. 6. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the Nevada Cancer Institute for research and community outreach and education for the Fiscal Year 2008-2009, the sum of $2,500,000.

2. Upon acceptance of the money appropriated by subsection 1, the Nevada Cancer Institute shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1, from the date on which the money was received by the Nevada Cancer Institute through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1, from the date on which the money was received by the Nevada Cancer Institute through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Nevada Cancer Institute, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 7. Any remaining balance of the appropriation made by section 6 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 8. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of:

(a) High Sierra Industries the sum of $1,000,000 for the establishment of a center to provide services ranging from life skills training to employment counseling to persons with a variety of disabilities.

(b) Opportunity Village the sum of $3,000,000 for vocational training, employment and social recreation services for persons with intellectual disabilities in southern Nevada.

(c) Washoe Arc the sum of $1,000,000 for the construction of a facility in Washoe County to serve the needs of persons with developmental disabilities.

2. Upon acceptance of the money appropriated by subsection 1, High Sierra Industries, Opportunity Village and Washoe Arc, respectively, shall each:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by High Sierra Industries, Opportunity Village and Washoe Arc, respectively, through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by High Sierra Industries, Opportunity Village and Washoe Arc, respectively, through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of High Sierra Industries, Opportunity Village and Washoe Arc, respectively, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 9. Any remaining balance of an appropriation made by section 8 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which the money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 10. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the Institute for Neuro-Immune Disease the sum of $2,000,000 for ~~[faculty, staff and operating costs]~~ **the construction of, and furnishings, and equipment for, a facility** relating to the research **and treatment** of neuro-immune disorders.

2. Upon acceptance of the money appropriated by subsection 1, the Institute shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the

money appropriated by subsection 1 from the date on which the money was received by the Institute through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Institute through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Institute, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 11. Any remaining balance of the appropriation made by section 10 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 12. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the:

(a) Clark County Public Education Foundation, Inc., the sum of $250,000 for new programs and expansion of outreach efforts.

(b) Washoe County School District Educational Foundation, Inc., the sum of $150,000 for new programs and expansion of outreach efforts.

2. Upon acceptance of the money appropriated by subsection 1, the Clark County Public Education Foundation, Inc., and the Washoe County School District Educational Foundation, Inc., respectively, shall each:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Clark County Public Education Foundation, Inc., and the Washoe County School District Educational Foundation, Inc., respectively, through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Clark County Public Education Foundation, Inc., and the Washoe County School District Educational Foundation, Inc., respectively, through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Clark County

Public Education Foundation, Inc., and the Washoe County School District Educational Foundation, Inc., respectively, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 13. Any remaining balance of an appropriation made by section 12 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which the money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 14. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the Lou Ruvo Brain Institute the sum of $3,000,000 for research, clinical studies, operations and educational programs at the Institute.

2. Upon acceptance of the money appropriated by subsection 1, the Institute shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Institute through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Institute through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Institute, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 15. Any remaining balance of the appropriation made by section 14 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 16. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the

Nevada Discovery Museum in Reno the sum of $1,000,000 for capital construction and initial operating expenses.

2. Upon acceptance of the money appropriated by subsection 1, the Museum shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Museum through December 1, 2008;

(b) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2010, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Museum through December 1, 2010;

(c) Prepare and transmit a final report to the Interim Finance Committee on or before September 16, 2011, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Museum through June 30, 2011; and

(d) Upon request of the Legislative Commission, make available to the Legislative Auditor any books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Museum, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated by subsection 1.

Sec. 17. Any remaining balance of the appropriation made by section 16 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 18. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the Lied Discovery Children's Museum the sum of $500,000 for the costs of planning a new facility.

2. Upon acceptance of the money appropriated by subsection 1, the Museum shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Museum through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Museum through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Museum, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 19. Any remaining balance of the appropriation made by section 18 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 20. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of the Las Vegas Natural History Museum the sum of $500,000 for the support and improvement of the Museum.

2. Upon acceptance of the money appropriated by subsection 1, the Museum shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Museum through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Museum through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Museum, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 21. Any remaining balance of the appropriation made by section 20 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 22. ~~[There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act for the use of White Pine County the sum of $1,500,000 for the design of a courthouse.]~~ **(Deleted by amendment.)**

Sec. 23. ~~[Any remaining balance of the appropriation made by section 22 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.]~~ **(Deleted by amendment.)**

Sec. 24. The appropriations made by the provisions of this act are not intended to finance ongoing expenditures of state agencies, and the expenditures financed with those appropriations must not be included as base budget expenditures in the proposed budget for the Executive Branch of State Government for the 2007-2009 biennium.

Sec. 25. 1. This section and sections 1, 2, 3, 8 to 15, inclusive, and 24 of this act become effective upon passage and approval.

2. Sections 4, 5 and 16 to 23, inclusive, of this act become effective on July 1, 2007.

3. Sections 6 and 7 of this act become effective on July 1, 2008.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 443.

Bill read third time.

Remarks by Assemblyman Oceguera.

Assemblyman Oceguera requested that his remarks be entered in the Journal.

In his State of the State, Governor Gibbons proposed $10 million in one-shots to be appropriated to the Nevada Cancer Institute for expansion of the institute's facility. In the executive budget, the Governor included another $10 million to fund the institute's ongoing operations. Both of those appropriations were included in the original version of SB 443. After the bill came out of drafting in late March, the Governor's office submitted a budget modification to indicate that a mistake had been made: The second portion of the appropriation—the $10 million for operations—should have been funded from ongoing funds. The budget modification stated specifically that "these funds are to be considered ongoing for this program in future bienniums.

As the members of this body know, the amounts of the cancer institute appropriation were reduced to $5 million in one-shot funds and $5 million in ongoing funds, and various other one-shot appropriations were amended into the bill by the Senate. The Governor's budget modification language for the cancer institute did not make it into the revised bill, so I'd like to state for the record that that the appropriations referenced in Sections 4 and 6, for $2.5 million in each year of the next biennium, are being paid out of ongoing funds. As such, it is the intent of this body that these funds be considered ongoing for this program in future biennia.

Potential conflict of interest declared by Assemblyman Manendo.

Roll call on Senate Bill No. 443:

YEAS—42.

NAYS—None.

Senate Bill No. 443 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 6:30 p.m.

Motion carried.

Assembly in recess at 4:52 p.m.

ASSEMBLY IN SESSION

At 7:23 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 553, 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 Ways and Means, to which was referred Senate Bill No. 556, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Senate Bill No. 185, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 553.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1165.

AN ACT making appropriations relating to education; and providing other matters properly relating thereto.

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

Delete existing sections 1 through 10 of this bill and replace with the following new sections 1 through 10:

Section 1. **1. There is hereby appropriated from the State General Fund to the Department of Education the sum of $800,000 for gifted and talented programs. After the allocation pursuant to subsection 2, the Department shall allocate the money based upon the number of pupils**

enrolled in each school district. The money must be used by a school district for gifted and talented programs that directly impact gifted and talented pupils.

2. Of the amount appropriated by subsection 1, the Department of Education shall use $55,293 in Fiscal Year 2007-2008 and $74,535 in Fiscal Year 2008-2009 for a parent involvement coordinator position in the Department of Education.

3. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 2. **1. There is hereby appropriated from the State General Fund to the Department of Education for pilot programs for alternative programs of education for disruptive pupils established pursuant to this section the sum of $915,000.**

2. The Superintendent of Public Instruction shall prescribe:

(a) The form for an application to establish a pilot program for an alternative program of education for disruptive pupils; and

(b) Criteria for the selection of schools to establish such a pilot program.

3. A public school in this State may submit an application to the Department to establish a pilot program pursuant to this section. Such an application must include an estimate of the costs of establishing a program. If a school is selected to establish a pilot program, the school will receive a grant of money from the appropriation made by subsection 1 to carry out a program in an amount based upon the estimated costs of establishing the program.

4. A pilot program established pursuant to this section must:

(a) Comply with NRS 392.4642 to 392.4648, inclusive;

(b) Be provided in a setting outside the regular classroom of the pupil;

(c) Ensure that pupils who are participating in the program are separated from pupils who are not participating in the program;

(d) Provide supervision of and counseling to pupils who participate in the program;

(e) Provide and emphasize instruction in English language arts, mathematics, science and history, as appropriate to the grade level of the pupils participating in the program;

(f) Provide and emphasize training in self-discipline;

(g) Provide for a transitional stage between in-school or in-home suspension and regular school activities; and

(h) Include an evaluation phase based on the collection of data to measure the effectiveness of the program.

5. A pilot program established pursuant to this section may:

(a) Be located on the grounds of the school or at another location.

(b) Include programs that:

(1) Use innovative instructional, counseling or disciplinary concepts.

(2) Encourage the effective involvement of the parents and legal guardians of pupils who are participating in the program.

(c) Provide instructional and other services to pupils through the existing staff at a public school or from other personnel, or any combination thereof.

6. On or before October 1, 2008, the schools that establish a pilot program pursuant to this section shall submit a report to the Department for the period ending September 1, 2008, that includes:

(a) The manner in which the pilot program was carried out;

(b) The number of pupils who participated in the program;

(c) The expenditures made by the school for the program;

(d) The number of disciplinary referrals, suspensions and expulsions that occurred at the school before and after the establishment of the program; and

(e) An analysis of the academic achievement and performance of the pupils before and after the pupils participated in the program.

7. The Department shall evaluate the effectiveness of the pilot programs established pursuant to this section based on the reports submitted by the schools pursuant to subsection 6. In addition, the Department shall solicit and analyze data from schools that did not establish pilot programs pursuant to this section but have established alternative programs of education for disruptive pupils. The Department may spend not more than $10,000 of the amount appropriated by subsection 1 during the Fiscal Years 2007-2009 to hire a contractor to assist with the evaluation.

8. On or before December 1, 2008, the Department shall submit a report of its findings to the Legislative Committee on Education.

9. On or before February 1, 2009, the Department shall submit a final report of its findings to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

10. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. **1. There is hereby appropriated from the State General Fund to the Department of Education the sum of $100,000 for distribution to school districts that establish pilot programs in accordance with this section. The Department shall:**

(a) Prescribe the form for an application to establish a pilot program to teach the English language to children who have limited proficiency in the English language during the summer before they attend kindergarten;

(b) Prescribe the criteria for the selection of school districts to establish a pilot program; and

(c) Develop a uniform method for evaluation of the pilot programs that provides a longitudinal analysis of statistical data.

2. A school district that wishes to establish a pilot program to teach the English language to children who have limited proficiency in the English language during the summer before they attend kindergarten shall:

(a) On or before October 1, 2007, submit to the Department of Education an application on the form provided by the Department pursuant to subsection 1;

(b) Submit proof to the Department that the school district has obtained matching money from a private source to combine with the money provided by the Department; and

(c) Agree to participate in the longitudinal evaluation of the pilot programs developed by the Department pursuant to subsection 1.

3. An application submitted pursuant to subsection 2 must contain a plan for a pilot program. Such a plan must:

(a) Contain an estimate of the number of children who will be enrolled in the program.

(b) Set forth the manner in which the children will be screened for participation in the pilot program. For each student that will participate in the pilot program, all prekindergarten children who are determined to have limited proficiency in the English language, who speak a common language and who will be enrolled in kindergarten at the school in the fall of 2008, must be enrolled in the same class for the pilot program, unless fewer than 10 such children speak a common language.

(c) Ensure that each class taught in the pilot program includes at least one teacher and one paraprofessional, at least one of whom must speak, read and write both the English language and the primary language of the children enrolled in the class.

4. The Department of Education shall not approve an application submitted pursuant to subsection 2 if the applicant has not received matching money from a private source.

5. On or before December 1, 2007, the Department of Education shall make grants of money from the appropriation made by subsection 1 as follows:

(a) If the Department approves an application submitted by the Clark County School District, up to $70,000 to the School District to carry out the pilot program before the beginning of the 2008-2009 school year.

(b) If the Department approves an application submitted by the Washoe County School District, up to $30,000 to the School District to carry out the pilot program before the beginning of the 2008-2009 school year.

(c) If the Department approves applications submitted by school districts other than the Clark County School District and the Washoe County School District, the Department shall distribute the amount of money remaining after the distributions to the Clark County School District and the Washoe County School District, if any, to those school districts. The grants of money made to each school district pursuant to this paragraph must be distributed proportionately among the school districts based upon the number of children who are estimated to participate in the pilot program in each school district. A school district that receives a grant of money pursuant to this paragraph shall use the money to carry out the approved pilot program before the beginning of the 2008-2009 school year.

6. For each school district whose application is approved, the school district shall distribute $1,000 to each school that will participate in the pilot program to promote parental involvement with the parents and legal guardians of children enrolled in the program. The money may be used by a school, without limitation, for the purchase of translating materials for the parents and guardians and providing training to the staff and parents and guardians on effective methods to communicate with school personnel and other methods designed to promote effective involvement by parents and guardians in the education of their children.

7. A school district that establishes a pilot program:

(a) Is responsible for all costs associated with the building, maintenance, utilities, administration and supplies for the pilot program offered at a school within the district.

(b) Shall submit an evaluation of the pilot program on or before November 1, 2008, to the Department of Education in a format required by the Department.

8. On or before February 2, 2009, the Department of Education shall submit a report to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature. The report must include, without limitation:

(a) The name of each school district that received a grant of money pursuant to subsection 5 and the amount of each grant;

(b) A compilation of the evaluations submitted by each school district that established a pilot program;

(c) An evaluation of the pilot programs, including, without limitation, the effect of the programs on the achievement and proficiency in the English language of the children enrolled in the program; and

(d) Any recommendations for legislation relating to the pilot programs.

9. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 4. **1. There is hereby appropriated from the State General Fund to the Communities in Schools of Southern Nevada, Inc., the sum of $709,000 to coordinate the provision of student and family services to youth in Clark County.**

2. Upon acceptance of the money appropriated by subsection 1, the Communities in Schools of Southern Nevada shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Communities in Schools of Southern Nevada through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Communities in Schools of Southern Nevada through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Communities in Schools of Southern Nevada, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

3. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 5. **1. There is hereby appropriated from the State General Fund to the Greater Las Vegas After-School All-Stars the sum of $709,000 for the implementation and operation of after-school programs in certain at-risk schools within the Clark County School District.**

2. The Greater Las Vegas After-School All-Stars shall work in cooperation with the Clark County School District to identify the at-risk schools within the School District in which the after-school programs will be provided.

3. The Greater Las Vegas After-School All-Stars shall use the money appropriated by subsection 1 to implement and operate an after-school program at each school identified pursuant to subsection 2, including, without limitation:

(a) Personnel for the program;

(b) Equipment and supplies for the program, including, without limitation, educational and instructional materials and sports equipment;

(c) Incentives for children who participate in the program, including, without limitation, shirts and medals;

(d) Transportation for educational field trips; and

(e) The provision of healthy snacks for children who participate in the program.

4. Upon acceptance of the money appropriated by subsection 1, the Greater Las Vegas After-School All-Stars shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Greater Las Vegas After-School All-Stars through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Greater Las Vegas After-School All-Stars through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Greater Las Vegas After-School All-Stars, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

5. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which

the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 6. **1. There is hereby appropriated from the State General Fund to the Department of Education the sum of $709,000 for allocation to Save the Children for in-school and after-school literacy programs.**

2. Upon acceptance of the money appropriated by subsection 1 and allocated by the Department, Save the Children shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by Save the Children through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by Save the Children through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of Save the Children, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

3. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 7. **1. There is hereby appropriated from the State General Fund to the Department of Education to provide signing bonuses to teachers of students who are deaf or hard of hearing who are newly hired by school districts:**

For the Fiscal Year 2007-2008 $5,000
For the Fiscal Year 2008-2009 $5,000

2. A newly hired teacher of students who are deaf or hard of hearing may not receive a signing bonus pursuant to this section until he has taught for a school district in this State for at least 30 days. A teacher of students who are deaf or hard of hearing may receive this bonus in addition to any other bonuses available for newly hired teachers. A teacher of students who are deaf or hard of hearing who teaches for a

school district in this State before July 1, 2007, and who subsequently transfers to another school district in this State is not eligible to receive a signing bonus pursuant to this section.

3. A school district that wishes to provide signing bonuses to its newly hired teachers of students who are deaf or hard of hearing shall submit information to the Department of Education, in a format prescribed by the Department, concerning the number of newly hired teachers of students who are deaf or hard of hearing for each fiscal year.

4. The Department of Education shall use the money appropriated by subsection 1 to provide signing bonuses to newly hired teachers of students who are deaf or hard of hearing for each fiscal year. The Department shall analyze the total number of newly hired teachers of students who are deaf or hard of hearing submitted by school districts pursuant to subsection 3 and determine the total amount of each signing bonus for each fiscal year. The amount of a bonus paid to each teacher must not exceed $1,000.

5. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 8. 1. **There is hereby appropriated from the State General Fund to the Department of Education for distribution to school districts for training stipends to teachers of students who are deaf or hard of hearing and interpreters for students who are deaf or hard of hearing who are engaged in college or university course work in the education of students who are deaf or hard of hearing:**

For the Fiscal Year 2007-2008 $37,500
For the Fiscal Year 2008-2009 $37,500

2. A school district that wishes to provide training stipends to teachers of and interpreters for students who are deaf or hard of hearing shall submit information to the Department of Education, in a format prescribed by the Department, concerning the number of teachers of or interpreters for students who are deaf or hard of hearing who are engaged in college or university course work in the education of students who are deaf or hard of hearing for each fiscal year.

3. The Department of Education shall use the money appropriated by subsection 1 to pay training stipends to teachers of or interpreters for students who are deaf or hard of hearing. The Department shall analyze

the total number of teachers of or interpreters for students who are deaf or hard of hearing submitted by school districts pursuant to subsection 2 and determine the total number and amount of training stipends to be awarded each fiscal year. The amount of a stipend paid to each teacher or interpreter must not exceed $500. The number of teachers who receive stipends pursuant to this section must not exceed 50 for each fiscal year. The number of interpreters who receive stipends pursuant to this section must not exceed 25 for each fiscal year.

4. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 9. **1. There is hereby appropriated from the State General Fund to the Intel International Science and Engineering Fair to be held May 8 through 15, 2009, in Reno, the sum of $200,000.**

2. Upon acceptance of the money appropriated by subsection 1, the Intel International Science and Engineering Fair shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Fair through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Fair through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Fair regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

3. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which

the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 10. **1. There is hereby appropriated from the State General Fund to the Department of Education the sum of $273,000 for distribution to school districts to establish a pilot program in accordance with this section.**

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

3. The Department of Education shall:

(a) Prescribe the form for an application to develop a magnet or regional elementary school pilot program for students who are deaf or hard of hearing;

(b) Prescribe the criteria for selection of a partnership between one or more school districts in counties whose population is less than 100,000 and that do not offer magnet or regional programs at the elementary level for students who are deaf or hard of hearing and a Deaf Studies program at an institution of the Nevada System of Higher Education to establish a pilot program; and

(c) Develop a uniform method for evaluation of the pilot program that provides a longitudinal analysis of statistical data.

4. A partnership between one or more school districts and the Deaf Studies program at an institution of the Nevada System of Higher Education that wishes to establish a pilot program pursuant to this section shall:

(a) On or before October 1, 2007, submit to the Department of Education an application on the form prescribed by the Department pursuant to subsection 3; and

(b) Agree to participate in the longitudinal evaluation of the pilot program developed by the Department pursuant to subsection 3.

5. An application submitted pursuant to subsection 2 must contain a plan for a pilot program. Such a plan must:

(a) Contain a budget for the 2007-2008 school year that expends not more than $5,000 of the money appropriated by this section to be used for the planning of the program and the surveying of parents and guardians of elementary age children who are deaf or hard of hearing to determine interest in a regional or magnet program.

(b) Contain a budget for the 2008-2009 school year with estimated costs for the transportation of students and estimated costs for additional school district personnel to implement the program, limited to not more than one teacher, two interpreters or aides and one speech pathologist.

(c) Set forth a plan for identifying the school to host the magnet or regional program and for transporting elementary school students who are deaf or hard of hearing to the host school.

(d) Set forth a plan for utilizing faculty and student assistance and any other resources available from the affiliated Deaf Studies program at an institution of the Nevada System of Higher Education.

6. If the Department of Education approves an application submitted by a partnership pursuant to subsections 4 and 5 to establish a pilot program, the Department shall provide to the partnership on or before December 1, 2007, a grant from the money appropriated by this section for the implementation of that program based on the budgets submitted pursuant to subsection 5.

7. The school districts participating in a pilot program pursuant to this section:

(a) Are responsible for all costs associated with the building, maintenance, utilities, administration and supplies for this pilot program.

(b) Shall submit an evaluation of the pilot program on or before November 1, 2008, to the Department of Education in a format required by the Department.

8. On or before February 1, 2009, the Department of Education shall submit a report to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature. The report must include, without limitation:

(a) An evaluation of the pilot program, including, without limitation, the effect of the program on the academic achievement of the pupils enrolled in the program; and

(b) Any recommendations for legislation relating to the pilot program.

Sec. 11. **This act becomes effective on July 1, 2007.**

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 185.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1157.

AN ACT relating to education; revising provisions governing the award of grants from the Account for Programs for Innovation and the Prevention of Remediation by the Commission on Educational Excellence; requiring the Commission to report certain information concerning allocations from the Account; revising provisions governing the use of money in the Account; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Commission on Educational Excellence is required to establish a program of educational excellence for pupils enrolled in kindergarten through grade 6 in public schools. The Commission is authorized to allocate grants of money from the Account for Programs for Innovation and the Prevention of Remediation in the State General Fund to school districts and public schools for certain programs designed for the achievement of pupils and for innovative programs. (NRS 385.3781-385.379)

Section 2 of this bill requires the Commission to establish guidelines for reviewing, evaluating and approving applications for grants of money from the Account. Section 2 directs that the guidelines include consideration of the list of priorities of schools provided to the Commission by the Department of Education and revises the contents of that list. Section 2 also requires each school district to provide assistance, upon the request of a public school within the school district, in the development of an application for a grant. Section 2 provides that the Commission shall not award a grant of money from the Account for a program of full-day kindergarten. Section 3 of this bill identifies specific information relating to allocations from the Account that the Commission is required to include in its annual report on the Account.

Section 4 of this bill places a limitation on the amount of money that may be expended from the Account each biennium for expenses incurred by members of the Commission to travel to the school districts and schools that receive allocations from the Account. Section 4 also authorizes the Commission to spend a maximum amount of money from the Account each biennium for: (1) the costs incurred by the Commission to hold meetings and conferences for recipients of allocations from the Account to discuss or display effective programs, practices and strategies; and (2) an evaluation of the programs that received allocations from the Account by an independent consultant.

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

Section 1. NRS 385.3784 is hereby amended to read as follows:

385.3784 1. The Commission on Educational Excellence, consisting of nine members is hereby created. The Superintendent of Public Instruction shall serve as an ex officio voting member of the Commission. The Governor shall appoint the following members to the Commission:

(a) Three teachers, two of whom have experience in providing instruction at public elementary schools and who have been successful in school improvement efforts and one of whom has experience in providing instruction at secondary schools and who has been successful in school improvement efforts;

(b) Two principals, one of whom has experience in administering successful school improvement efforts at an elementary school and one of whom has experience in administering successful school improvement efforts at a secondary school;

(c) Two school district administrators, one of whom is employed by a school district in a county whose population is less than 100,000 and one of whom is employed by a school district in a county whose population is 100,000 or more; and

(d) One parent or legal guardian of a pupil enrolled in a public school in this State. ***The parent must not be employed by the board of trustees of a school district or the governing body of a charter school.***

➥ One or more of the members appointed pursuant to this subsection may be retired from employment, but those retired members that are appointed must have been employed with a public school in this State in the immediately preceding 5 years.

2. The Governor may solicit recommendations for appointments pursuant to this section from the Nevada State Education Association, the Nevada Association of School Administrators, a statewide organization for parents of pupils, the Statewide Council for the Coordination of the Regional Training Programs and other organizations and entities related to education in this State. The Governor may consider the recommendations submitted and may make appointments from those recommendations. The Governor shall appoint a Chairman from among the members he appoints.

3. After the initial terms, the term of each appointed member of the Commission is 2 years, commencing on January 1 of the year in which he is appointed and expiring on December 31 of the immediately following year. A member shall continue to serve on the Commission until his successor is appointed. Upon the expiration of a term of a member, he may be reappointed if he still possesses any requisite qualifications for appointment. There is no limit on the number of terms that a member may serve.

4. The Commission shall hold at least four regular meetings each year and may hold special meetings at the call of the Chairman.

5. Members of the Commission serve without compensation, except that for each day or portion of a day during which a member of the Commission attends a meeting of the Commission or is otherwise engaged in the business of the Commission, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. ~~[The]~~ ***Except as limited by paragraph (a) of subsection 3 of NRS 385.379, the*** per diem allowances and travel expenses must be paid from the Account and accounted for separately in that Account. In addition, money in the Account

may be used to pay compensation necessary for the employment of substitute teachers who are hired on those days when a member of the Commission attends a meeting of the Commission or is otherwise engaged in the business of the Commission.

6. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out its duties.

7. The Legislative Counsel Bureau:

(a) Must be provided with adequate notice of each meeting of the Commission; and

(b) Shall provide, as requested by the Committee, technical expertise and assistance to the Commission.

Sec. 2. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;

(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation; and

(4) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by ~~[school districts and]~~ public schools ~~[,]~~ ***and a consortium of public schools,*** including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both. ***The Commission shall not award a grant of money from the Account for a program to provide full-day kindergarten.*** All ~~[school districts and]~~ public schools ~~[,]~~ ***and a consortium of public schools,*** including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the ~~[school district or school has]~~ ***schools have*** made adequate yearly progress or failed to make adequate yearly progress. A ~~[school district or]~~ public school ***or a consortium of public schools*** selected for participation

may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from ~~[school districts and]~~ public schools ***and consortiums of public schools*** that desire to participate in the program.

(e) ***Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of schools provided by the Department pursuant to subsection 4. ~~If~~ To ensure consistency in the review, evaluation and approval of applications, if the guidelines authorize the review and evaluation of applications by less than the entire membership of the Commission, money must not be allocated from the Account for a grant until the entire membership of the Commission has reviewed and approved the application for the grant.***

(f) Prescribe accountability measures to be carried out by a ~~[school district or]~~ public school that participates in the program if that ~~[school district or]~~ public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of ~~[school districts and]~~ schools that participate; and

(2) Conditions for ~~[school districts and]~~ schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

~~[(f)]~~ ***(g)*** Determine the amount of money that is available from the Account for those ~~[school districts and]~~ public schools that are selected to participate in the program.

~~[(g)]~~ ***(h)*** Allocate money to ~~[school districts and]~~ public schools from the Account. Allocations must be distributed not later than August 15 of each year.

~~[(h)]~~ ***(i)*** Establish criteria for ~~[school districts and]~~ public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria identified in the plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(2) ~~[~~If applicable, the achievement of pupils enrolled in the school district as a whole, based upon measurable criteria identified in the plan to improve the achievement of pupils for the school district prepared pursuant to NRS 385.348;

~~(3)]~~ If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff;

~~[(4)]~~ ***(3)*** The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the ~~[school district or the]~~ school is meeting the measurable objectives identified in the plan; and

~~[(5)]~~ ***(4)*** The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to ~~[school districts and]~~ public schools ***and consortiums of public schools*** for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall comply with the requirements of subsection 1.

3. If a ~~[school district or]~~ public school that receives money pursuant to subsection 1 or 2 ~~[does]~~ ***:***

(a) Does not meet the criteria for effectiveness as prescribed in paragraph ~~[(h)]~~ ***(i)*** of subsection 1 ***;***

(b) Does not, as a result of the program for which the grant of money was awarded, show improvement in the achievement of pupils, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379; or

(c) Does not implement the program for which the money was received, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379,

➥ over a 2-year period, the Commission may consider not awarding future allocations of money to that ~~[school district or]~~ public school ~~[.]~~ ***or consortium of public schools.***

4. On or before July 1 of each year, the Department shall provide a list of priorities of schools ~~[based upon the]~~ ***that indicates:***

(a) The adequate yearly progress status of schools in the immediately preceding year ***; and***

(b) The schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole,

➥ for consideration by the Commission in its development of procedures for the applications.

5. ***A public school, including, without limitation, a charter school, or a consortium of public schools may request assistance from the school district in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school or consortium of public schools that requests assistance pursuant to this subsection to ensure that the application of the school:***

(a) Is based directly upon the plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(b) Is developed in accordance with the criteria established by the Commission; and

(c) ~~*[Contains a reasonable request for money that is logically connected to the program for which the money is being requested; and*~~

~~*(d) Does not duplicate the programs or services already available to the school through the school district.]*~~ ***Is complete and complies with all technical requirements for the submission of an application.***

➥ A school district may make recommendations to the individual schools and consortiums of schools. Such schools and consortiums of schools are not required to follow the recommendations of a school district.

6. In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

7. If a consortium of public schools is formed for the purpose of submitting an application pursuant to this section, the public schools within the consortium do not need to be located within the same school district.

Sec. 2.5. **NRS 385.3787 is hereby amended to read as follows:**

385.3787 1. A ~~[school district or]~~ public school ***or consortium of public schools*** that receives an allocation of money from the Account shall:

(a) Account for the money separately;

(b) Use the money to supplement and not replace the money that would otherwise be expended by the school district or public school for the achievement of pupils in kindergarten through grade 6 or pupils in grades 7 through 12, as applicable; and

(c) Submit an evaluation of the effectiveness of the allocation in improving the achievement of pupils in kindergarten through grade 6 or pupils in grades 7 through 12, as applicable, in accordance with the criteria for evaluation established by the Commission pursuant to NRS 385.3785.

2. A ~~[school district or]~~ public school ***or consortium of schools*** that receives an allocation of money from the Account shall not:

(a) Use the money to settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district or public school and the school district or public school, as applicable.

(b) Use the money to adjust the schedules of salaries and benefits of the employees of the school district or public school, as applicable.

Sec. 3. NRS 385.3789 is hereby amended to read as follows:

385.3789 1. The Commission shall prepare an annual report that describes the distribution of money to the ~~[school districts and]~~ public schools ***and consortiums of public schools*** and the programs for which

money was allocated from the Account ~~[.]~~ ***, including, without limitation, the total amount of money allocated:***

(a) To each ~~[school district,]~~ consortium of public schools, with a designation of which public schools are included in each consortium;

(b) To each public school;

(c) To schools included on the list of priorities of schools provided by the Department pursuant to NRS 385.3785;

(d) For programs that provide services directly to pupils for remediation and innovation, including, without limitation, instruction, instructional materials and support materials;

(e) For programs that provide instructional support and have an indirect effect on pupils, including, without limitation, the provision of professional development for educational personnel and the employment of administrators; and

(f) For each program, including, without limitation:

(1) A description of the program, including, without limitation, whether the program is available commercially;

(2) Whether the Commission considers the program to be innovative;

(3) Whether the program includes the provision of professional development other than professional development that is related to carrying out a program that provides services directly to pupils;

(4) The costs to implement the program; and

(5) The full-time personnel necessary to implement the program, if any.

➥ The report must be submitted on or before September 1 of each year to the entities identified in subsection 3.

2. The Commission shall:

(a) Prepare an annual report that describes:

(1) The activities of the Commission;

(2) An analysis of the progress of the ~~[school districts and]~~ public schools in carrying out the plans to improve the achievement of pupils; and

(3) An analysis of the progress of the ~~[school district and]~~ public schools that received an allocation of money from the Account in improving the achievement of pupils.

(b) Submit the report on or before January 31 of each year to the entities identified in subsection 3.

3. The Commission shall submit the reports required by this section to the:

(a) State Board;

(b) Governor;

(c) Committee;

(d) Bureau;

(e) Interim Finance Committee; and

(f) Board of trustees of each school district.

4. The Legislative Auditor shall audit biennially the programs for which schools and consortiums of schools receive an allocation of money. The audit may include a representative sample of programs, based upon geographic location and type of program. The Legislative Auditor shall report the results of each biennial audit to the entities prescribed in subsection 3.

Sec. 4. NRS 385.379 is hereby amended to read as follows:

385.379 1. The Account for Programs for Innovation and the Prevention of Remediation is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2 ~~[.]~~ ***or 3.*** The interest and income earned on the money in the Account must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

2. ~~[The]~~ ***Except as otherwise provided in NRS 385.3784 and subsection 3, the*** money in the Account may only be used for the allocation of money to ~~[school districts and]~~ public schools ***and consortiums of public schools*** whose applications are approved by the Commission pursuant to NRS 385.3785.

3. Upon the request of the Commission:

(a) Not more than $50,000 in the Account may be used each biennium to pay:

(1) The expenses incurred by members of the Commission to travel to the ~~[school districts and]~~ public schools and consortiums of public schools that received allocations of money from the Account; and

(2) The costs incurred by the Commission to hold meetings or conferences for representatives of ~~[school districts and]~~ public schools and consortiums of schools that received allocations of money from the Account to discuss or display, or both, programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(b) Not more than $450,000 in the Account may be used each biennium to pay for an evaluation of the programs for which money was allocated from the Account. If the Commission uses money in the Account for such an evaluation, the Commission shall ensure that:

(1) A request for proposals is issued and a qualified, independent consultant is selected to conduct the evaluation;

(2) Upon selection of the consultant, the Commission receives approval of the consultant and the plan for the evaluation from the Committee;

(3) The evaluation is designed to determine the effectiveness of the programs for which money was allocated from the Account in improving achievement of pupils; ~~[and]~~

(4) The evaluation includes an identification of the programs for which money was allocated from the Account that did not improve the achievement of pupils as described in the approved application for the grant;

(5) The evaluation includes an identification of the public schools and consortiums of public schools that did not implement the programs for which money was allocated from the Account as described in the approved application for the grant; and

(6) The evaluation includes a compilation and review of each evaluation required to be submitted by ~~[school districts and]~~ public schools and consortiums of public schools pursuant to NRS 385.3787.

Sec. 5. This act becomes effective on July 1, 2007.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 556.

Bill read third time.

Conflict of interest declared by Assemblywoman Leslie.

Roll call on Senate Bill No. 556:

YEAS—41.

NAYS—None.

NOT VOTING—Leslie.

Senate Bill No. 556 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 553.

Bill read third time.

Roll call on Assembly Bill No. 553:

YEAS—42.

NAYS—None.

Assembly Bill No. 553 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 185.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 185:

YEAS—42.

NAYS—None.

Senate Bill No. 185 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 460, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 995 of the Senate be receded from and a 4th reprint be created in accordance with this action which is attached to and hereby made a part of this report.

BONNIE PARNELL	MAURICE WASHINGTON
RUBEN KIHUEN	BARBARA CEGAVSKE
BOB BEERS	WILLIAM RAGGIO
Assembly Conference Committee	*Senate Conference Committee*

Assemblywoman Parnell moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 460.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 304, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 911 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 29, which is attached to and hereby made a part of this report.

MARK MANENDO	WARREN HARDY
JAMES OHRENSCHALL	MICHAEL SCHNEIDER
	RANDOLPH TOWNSEND
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA29.

AN ACT relating to ~~[manufactured home parks;]~~ **housing; authorizing a person who makes a payment toward the purchase of a manufactured home to bring an action to rescind a contract or recover damages under certain circumstances;** revising the provisions relating to the review of rental agreements and other residency documents; revising the provisions relating to certain repairs to a manufactured home; making changes pertaining to rules and regulations of a manufactured home park; revising the provisions relating to meetings between a landlord and tenants under certain circumstances; requiring a landlord to pay certain costs associated with the conversion of a manufactured home park; increasing the amount of the limitation on the lien of a landlord; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law **regulates manufactured home parks and various activities of landlords and tenants in those parks. (Chapter 118B of NRS) Section**

3 of this bill provides that, if a person makes a payment toward the purchase of a manufactured home in reasonable reliance upon a prospectus or any other material written statement contained in promotional materials relating to the manufactured home, and if the prospectus or written statement is proven to be false or misleading, the person may bring an action to rescind a contract or to recover damages and reasonable attorney's fees from the landlord or manufactured home dealer.

Existing law establishes provisions relating to rental agreements and other residency documents. (NRS 118B.040) Section ~~[1]~~ **5** of this bill removes the requirement that a landlord must allow a tenant to review such documents for 72 hours during which time a landlord is not prevented from accepting another tenant for the same residency. Instead, section ~~[1]~~ **5** requires a landlord **before requiring or accepting any application fee,** to give a prospective tenant a copy of the rental agreement, a copy of the rules and regulations of the manufactured home park, any existing notices of the sale, closure or conversion of the manufactured home park**, the criteria used in deciding whether to accept an applicant, the maintenance responsibilities of the landlord** and any other residency documents **.** ~~[before requiring or accepting any application fee.]~~

Existing law sets forth requirements relating to the repair of a manufactured home and prohibits a landlord from allowing a third party to make such repairs under certain circumstances. (NRS 118B.097) Section ~~[2]~~ **7** of this bill replaces a prohibition on allowing a third party to make repairs that affect life, health or safety with a list of specific repairs that a landlord may not allow a third party to make. Section ~~[2]~~ **7** also prohibits landlords from employing certain persons to make such repairs. Further, section ~~[2]~~ **7** requires the Administrator of the Manufactured Housing Division of the Department of Business and Industry to adopt regulations to specify the repairs that a person without an applicable license may make to a manufactured home.

Section ~~[3]~~ **8** of this bill revises the provisions relating to a landlord's adoption of rules and regulations concerning a manufactured home park and provides that a properly adopted or amended rule or regulation supersedes any inconsistent prior rule or regulation. (NRS 118B.100) Section ~~[3]~~ **8** also requires a landlord to provide a copy of such rules and regulations to a tenant at the time the tenant enters into a rental agreement.

Existing law establishes provisions relating to meetings between a landlord and representative groups of tenants to hear complaints and suggestions regarding a manufactured home park. (NRS 118B.110) Section ~~[4]~~ **9** of this bill provides for a natural person designated by the owner to meet with tenants for such purposes. Section ~~[4]~~ **9** also prohibits a manager from meeting with tenants for such purposes unless the manager, the landlord and the owner are all the same natural person.

Existing law requires a landlord to pay to a tenant **the costs of moving the tenant or** the fair market value of a manufactured home under certain circumstances during the **closing or** conversion of a manufactured home park. (NRS **118B.130, 118B.177, 118B.180,** 118B.183) ~~[Section 5]~~ **Sections 10-13** of this bill ~~[requires]~~ **require** a landlord to pay costs associated with **moving a tenant's manufactured home to a new location in this State or another state that is within 100 miles from the manufactured home park and to pay various other costs for the tenant, including** determining the **fair** market value of ~~[such manufactured homes]~~ **the manufactured home** and the reasonable cost of removing and disposing of ~~[such homes.]~~ **the manufactured home.**

Section ~~[6.5]~~ **15** of this bill increases the limitation on the amount of a lien that a landlord may hold for the total amount due and unpaid for rentals and utilities from $2,000 to ~~[$5,000.]~~ **$2,500.**

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

Section 1. **Chapter 118B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.**

Sec. 2. ***"Appurtenance" means a structure, installation, facility, amenity or other improvement that is appurtenant to or benefits one or more manufactured homes, but is not a part of the manufactured home. The term includes, without limitation, skirting, ramps, cabanas, carports, porches, awnings, sheds and other structures, installations, facilities and amenities associated with or benefiting one or more manufactured homes.***

Sec. 3. ***A person who makes a payment toward the purchase of a manufactured home or the placement of a manufactured home on a manufactured home lot in a manufactured home park in reasonable reliance upon any material written statement contained in promotional materials relating to the manufactured home or manufactured home park, including, without limitation:***

1. A prospectus;

2. Exhibits produced in support of a prospectus;

3. A brochure; or

4. A newspaper advertisement,

➥ that proves to be false or misleading may bring an action in a court of competent jurisdiction to rescind any contract or agreement and may recover damages and reasonable attorney's fees from the landlord or manufactured home dealer that issued the false or misleading material written statement.

Sec. 4. **NRS 118B.010 is hereby amended to read as follows:**

118B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 118B.011 to 118B.0195, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

~~[Section 1.]~~ ***Sec. 5.*** NRS 118B.040 is hereby amended to read as follows:

118B.040 1. ~~[An approved applicant for residency may request 72 hours to review the proposed rental agreement or lease, the rules and regulations of the manufactured home park and other residency documents. Upon receiving such a request, the landlord shall allow the approved applicant to review the documents for 72 hours. This review period does not, however, prevent the landlord from accepting another tenant for the space or residency while the 72 hours is pending.]~~ ***Before requiring or accepting payment of any application fee, a landlord shall give to a prospective tenant who may rent or lease a manufactured home lot:***

(a) A copy of the rental agreement or lease;

(b) A copy of the rules and regulations governing the manufactured home park;

(c) Any notices of the sale, closure or conversion of the manufactured home park that must be provided to tenants pursuant to the provisions of this chapter; ~~*[and]*~~

(d) The criteria used by the manufactured home park in deciding whether to accept an applicant;

(e) A list of every increase in rent during the last 5 years for the manufactured home lot;

(f) The maintenance responsibilities of the landlord pursuant to NRS 118B.090; and

(g) Any other residency documents.

2. A rental agreement or lease between a landlord and tenant to rent or lease any manufactured home lot must be in writing. The landlord shall give the tenant a copy of the agreement or lease at the time the tenant signs it.

3. A rental agreement or lease must contain, but is not limited to, provisions relating to:

(a) The duration of the agreement ~~[.]~~ ***or lease.***

(b) The amount of rent, the manner and time of its payment and the amount of any charges for late payment and dishonored checks.

(c) Restrictions on occupancy by children or pets.

(d) Services and utilities included with the rental of a lot and the responsibility of maintaining or paying for them, including the charge, if any, for cleaning the lots.

(e) Deposits which may be required and the conditions for their refund.

(f) Maintenance which the tenant is required to perform and any appurtenances he is required to provide.

(g) The name and address of the owner of the manufactured home park and his authorized agent.

(h) Any restrictions on subletting.

(i) Any recreational facilities and other amenities provided to the tenant and any deposits or fees required for their use.

(j) Any restriction of the park to older persons pursuant to federal law.

(k) The dimensions of the manufactured home lot of the tenant.

(l) A summary of the provisions of NRS 202.470.

(m) Information regarding the procedure pursuant to which a tenant may report to the appropriate authorities:

(1) A nuisance.

(2) A violation of a building, safety or health code or regulation.

(n) Information regarding the right of the tenant to engage in the display of the flag of the United States, as set forth in NRS 118B.143.

(o) The amount to be charged each month to the tenant to reimburse the landlord for the cost of a capital improvement to the manufactured home park. Such an amount must be stated separately and include the length of time the charge will be collected and the total amount to be recovered by the landlord from all tenants in the manufactured home park.

(p) Any other fees to be charged to the tenant in addition to the base rent.

Sec. 6. **NRS 118B.085 is hereby amended to read as follows:**

118B.085 1. A landlord shall notify the Division, in writing, of his correct name, address and telephone number. If the landlord has employed a manager or assistant manager, or both, he shall also notify the Division, in writing, of the name, address and telephone number of any such manager and assistant manager of his park. After the initial notification, the landlord shall also send notice of the information required pursuant to this subsection within 45 days after:

(a) Buying the park***;*** ~~[.]~~

(b) Opening the park for occupancy***;*** ~~[.]~~

(c) Changing managers or assistant managers ~~[.]~~***; or***

(d) Changing his name, address or telephone number.

2. Upon receiving the notice required by subsection 1, the Administrator shall send the landlord, manager and assistant manager, as applicable, the text of the provisions of this chapter and a form upon which the landlord, manager and assistant manager, as applicable, shall acknowledge that each has received those provisions and has read them. The landlord, manager and assistant manager, as applicable, shall return the acknowledged form to the Administrator within 10 days after receiving it.

~~[Sec. 2.]~~ ***Sec. 7.*** NRS 118B.097 is hereby amended to read as follows:

118B.097 ***1.*** If a repair to a manufactured home may affect ~~[life, health or safety]~~ ***the structural, electrical, plumbing, drainage, roofing, mechanical or solid fuel burning systems of the home, or requires a permit before the repair may be made,*** ~~[and]~~ the repair may be performed legally only by a person who is qualified by licensure ~~[or certification]~~ to perform such a repair ~~[.]~~ ***, and:***

~~[1.]~~ ***(a)*** A person shall not perform the repair unless he has such qualifications; and

~~[2.]~~ ***(b)*** A tenant or a landlord, or his agent or employee, shall not ~~[allow]~~ ***employ*** a third party to perform the repair if he knows or, in light of all the

surrounding facts and circumstances, reasonably should know that the third party does not have such qualifications.

2. The Administrator shall adopt regulations to specify the repairs that a person without an applicable license may make to a manufactured home in accordance with the provisions of this section and chapter 489 of NRS.

~~[Sec. 3.]~~ ***Sec. 8.*** NRS 118B.100 is hereby amended to read as follows:

118B.100 1. The landlord may adopt rules or regulations concerning the tenant's use and occupancy of the manufactured home lot and the grounds, areas and facilities of the manufactured home park held out for the use of tenants generally.

2. All such rules or regulations must be:

(a) Reasonably related to the purpose for which they are adopted;

(b) Sufficiently explicit in their prohibition, direction or limitation to inform the tenant of what he must do or not do for compliance;

(c) Adopted in good faith and not for the purpose of evading any obligation of the landlord arising under the law;

(d) Consistent with the provisions of this chapter and a general plan of operation, construction or improvement, and must not arbitrarily restrict conduct or require any capital improvement by the tenant which is not specified in the rental agreement or unreasonably require a change in any capital improvement made by the tenant and previously approved by the landlord unless the landlord can show that it is in the best interest of the other tenants; and

(e) Uniformly enforced against all tenants in the park, including the managers. Any rule or regulation which is not so uniformly enforced may not be enforced against any tenant.

3. No rule or regulation may be used to impose any additional charge for occupancy of a manufactured home lot or modify the terms of a rental agreement.

4. Except as otherwise provided in subsection 5, a rule or regulation is enforceable against the tenant only if he has notice of it at the time he enters into the rental agreement. A rule or regulation adopted or amended after the tenant enters into the rental agreement is not enforceable unless the tenant consents to it in writing or is given 60 days' notice of it in writing. The landlord may not adopt or amend a rule or regulation of the park unless a meeting of the tenants is held to discuss the proposal and the landlord provides each tenant with notice of the proposal and the date, time and place of the meeting not less than 60 days before the meeting. The notice must include a copy of the proposed adoption or amendment of the rule or regulation. A notice in a periodic publication of the park does not constitute notice for the purposes of this subsection.

5. A rule or regulation pertaining to recreational facilities in the manufactured home park must be in writing to be enforceable.

6. ***A rule or regulation adopted or amended in compliance with the provisions of this section supersedes any previously existing rule or***

regulation that conflicts with the adopted or amended rule or regulation. Only one version of any rules and regulations or any architectural standards may be in effect at any given time.

7. The landlord shall provide the tenant with a copy of the existing rules and regulations at the time the tenant enters into the rental agreement.

8. As used in this section, "capital improvement" means an addition or betterment made to a manufactured home located on a lot in a manufactured home park which is leased by the landlord that:

(a) Consists of more than the repair or replacement of an existing facility;

(b) Is required by federal law to be amortized over its useful life for the purposes of income tax; and

(c) Has a useful life of 5 years or more.

~~[Sec. 4.]~~ ***Sec. 9.*** NRS 118B.110 is hereby amended to read as follows:

118B.110 1. The landlord ***or a person designated pursuant to subsection 3*** shall meet with a representative group of tenants occupying the park, chosen by the tenants, to hear any complaints or suggestions which concern a matter relevant to the park within 45 days after he receives a written request to do so which has been signed by persons occupying at least 25 percent of the lots in the park. The 25 percent must be calculated on the basis of one signature per occupied lot. The meeting must be held at a time and place which is convenient to the landlord ***or person designated pursuant to subsection 3*** and ***to*** the tenants. The representative group of tenants must consist of no more than five persons.

2. At least 10 days before any meeting is held pursuant to this section, the landlord or his agent shall post a notice of the meeting in a conspicuous place in a common area of the park.

3. ~~[If]~~ ***Except as otherwise provided in subsection 4, if*** the landlord is ~~[a:~~

~~(a) Sole proprietorship, the owner or an authorized agent or representative designated by the owner who has working knowledge of the operations of the park and authority to make decisions shall meet with the tenants.~~

~~(b) Partnership, a partner who has working knowledge of the operations of the park and authority to make decisions shall meet with the tenants.~~

~~(c) Corporation, an officer designated by the corporation]~~ ***not a natural person, the owner may designate an authorized agent or representative*** who has working knowledge of the operations of the park and ***who has*** authority to make decisions ~~[shall meet with the tenants.]~~ ***concerning matters relevant to the park to meet with the tenants pursuant to this subsection.***

4. ***A manager may not meet with the tenants pursuant to this section unless the manager, the landlord and the owner are all the same natural person.***

5. If an attorney for the landlord attends a meeting held pursuant to this section, the landlord shall not prohibit the group of tenants from being represented by an attorney at that meeting.

~~[5.]~~ ***6.*** If the landlord of a manufactured home park is a cooperative association or a corporation for public benefit, the landlord shall provide a notice of the meeting to the Administrator and the Administrator or his representative shall attend the meeting.

~~[6.]~~ ***7.*** As used in this section:

(a) "Cooperative association" means an association formed pursuant to the provisions of NRS 81.170 to 81.270, inclusive.

(b) "Corporation for public benefit" has the meaning ascribed to it in NRS 82.021.

Sec. 10. **NRS 118B.130 is hereby amended to read as follows:**

118B.130 1. A landlord may not change:

(a) An existing park to a park for older persons pursuant to federal law unless the tenants who do not meet those restrictions and may lawfully be evicted are moved to other parks at the expense of the landlord; or

(b) The restriction of a park for older persons pursuant to federal law unless the tenants are given the option of remaining in their spaces or moving to other parks at the expense of the landlord.

2. A tenant who elects to move pursuant to a provision of subsection 1 ~~[must]~~ ***shall*** give the landlord notice in writing of his election to move within 75 days after receiving notice of the change in restrictions in the park.

3. At the time of providing notice of the change in restrictions in the park, the landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If a landlord is required to move a tenant to another park pursuant to subsection 1, he shall pay:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location ***in this State or another state*** within ~~[50]~~ ***100*** miles from the manufactured home park; or

(b) If the new location is more than ~~[50]~~ ***100*** miles from the manufactured home park, the cost of moving the manufactured home for the first ~~[50]~~ ***100*** miles,

➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

~~[3.]~~ ***5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.***

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged

or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

7. A landlord of a park in which restrictions have been or are being changed shall give written notice of the change to each:

(a) Tenant of the park who does not meet the new restrictions ~~[.]~~ ***; and***

(b) Prospective tenant before the commencement of the tenancy.

8. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.

Sec. 11. **NRS 118B.177 is hereby amended to read as follows:**

118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the ~~[amount described in subsection 2 or 3, in accordance with the choice of the tenant.]~~ ***amounts required by subsections 3, 4 and 5.***

2. ***At the time of providing notice of the closure of the park, a landlord shall provide to each tenant:***

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving each tenant's manufactured home and its appurtenances to a new location ***in this State or another state*** within ~~[50]~~ ***100*** miles from the manufactured home park; or

(b) If the new location is more than ~~[50]~~ ***100*** miles from the manufactured home park, the cost of moving the manufactured home for the first ~~[50]~~ ***100*** miles,

➥ including fees for inspection, any deposits for connecting utilities, and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.

~~[3.]~~ ***4.*** If the ***landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.***

5. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged, or there is no manufactured home park within ~~[50]~~ ***100*** miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home ***.*** ~~[less the reasonable cost of removing and disposing of the manufactured home.~~

~~4.]~~ ***6.*** Written notice of any closure must be served timely on each:

(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

(b) Prospective tenant by:

(1) Handing each prospective tenant or his agent a copy of the written notice; and

(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.

~~[5.]~~ ***7.*** For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

~~[6.]~~ ***8. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 5.***

9. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection ~~[4.~~

~~7.]~~ ***6.***

10. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.

Sec. 12. **NRS 118B.180 is hereby amended to read as follows:**

118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local

governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to ***the Division and*** each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least 90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;

(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;

(d) If a tenant does not exercise his option to purchase the lot pursuant to paragraph (b), the landlord pays:

(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location ***in this State or another state*** within ~~[50]~~ ***100*** miles from the manufactured home park; or

(2) If the new location is more than ~~[50]~~ ***100*** miles from the manufactured home park, the cost of moving the manufactured home for the first ~~[50]~~ ***100*** miles,

➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park; and

(e) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

3. ***At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:***

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

5. If a tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged

or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

6. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.

~~[4.]~~ ***7.*** Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.

~~[5.]~~ ***8. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 5.

10. The provisions of this section do not apply to a corporate cooperative park.

~~[Sec. 5.]~~ ***Sec. 13.*** NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to ***the Division and*** each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the ~~[amount described in subsection 3 or 4, in accordance with the choice of the tenant;]~~ ***amounts required by subsections 4, 5 and 6;*** and

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS

40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

3. ***At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:***

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location ***in this State or another state*** within ~~[50]~~ ***100*** miles from the manufactured home park; or

(b) If the new location is more than ~~[50]~~ ***100*** miles from the manufactured home park, the cost of moving the manufactured home for the first ~~[50]~~ ***100*** miles,

➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

~~[4.]~~ ***5.*** If the ***landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.***

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged, or there is no manufactured home park within ~~[50]~~ ***100*** miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home ***.*** ~~[less the reasonable cost of removing and disposing of the manufactured home.~~

~~5.]~~ ***7.*** A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

~~[6.]~~ ***8.*** For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

~~[7.]~~ ***9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.***

~~*[8.]*~~ ***10.*** The provisions of this section do not apply to a corporate cooperative park.

~~[Sec. 6.]~~ ***Sec. 14.*** (Deleted by amendment.)

~~[Sec. 6.5.]~~ ***Sec. 15.*** NRS 108.290 is hereby amended to read as follows:

108.290 1. If property that is the subject of a lien which is acquired as provided in NRS 108.270 to 108.360, inclusive, is the subject of a secured transaction in accordance with the laws of this State, the lien:

(a) In the case of a lien acquired pursuant to NRS 108.315, is a first lien.

(b) In the case of a lien on a motor vehicle for charges for towing, storing and any related administrative fees:

(1) For the first 30 days of the lien:

(I) If the amount of the lien does not exceed $1,000, is a first lien.

(II) If the amount of the lien exceeds $1,000, is a second lien.

(2) After the first 30 days of the lien:

(I) If the amount of the lien does not exceed $2,500, is a first lien.

(II) If the amount of the lien exceeds $2,500, is a second lien.

(c) In all other cases, if the amount of the lien:

(1) Does not exceed $1,000, is a first lien.

(2) Exceeds $1,000, is a second lien.

2. The lien of a landlord may not exceed ~~[$2,000]~~ ~~*[$5,000]*~~ ***$2,500*** or the total amount due and unpaid for rentals and utilities, whichever is ~~[the lesser.]~~ ***less.***

Sec. 16. **NRS 278.0209 is hereby amended to read as follows:**

278.0209 1. In any ordinance relating to the zoning of land adopted or amended by a governing body, the definition of "single-family residence" must include factory-built housing that has been built in compliance with the standards for single-family residential dwellings of the Uniform Building Code most recently adopted by the International Conference of Building Officials.

2. An ordinance of the governing body may require factory-built housing to comply with standards for safety which exceed the standards prescribed in subsection 1 if a single-family residential dwelling on the same lot is also required to comply with those standards.

3. The governing body shall adopt the same standards for development for the factory-built housing and the lot on which it is placed as those to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to:

(a) Requirements for the setback of buildings.

(b) Side and rear-yard requirements.

(c) Standards for enclosures, access and the parking of vehicles.

(d) Aesthetic requirements.

(e) Requirements for minimum square footage.

(f) Requirements for design, style and structure.

4. The governing body may prohibit the installation of factory-built housing in a specified area if:

(a) More than ~~[5]~~ ***6*** years have elapsed between the date of manufacture of factory-built housing and the date of the application for the issuance of a permit to install factory-built housing in the affected area; or

(b) The area contains a building, structure or other object having a special character or special historical interest or value.

5. As used in this section, "factory-built housing" has the meaning ascribed to it in NRS 461.080.

6. The provisions of this section do not abrogate a recorded restrictive covenant.

Sec. 17. **NRS 278.02095 is hereby amended to read as follows:**

278.02095 1. Except as otherwise provided in this section, in an ordinance relating to the zoning of land adopted or amended by a governing body, the definition of "single-family residence" must include a manufactured home.

2. Notwithstanding the provisions of subsection 1, a governing body shall adopt standards for the placement of a manufactured home that will not be affixed to a lot within a mobile home park which require that:

(a) The manufactured home:

(1) Be permanently affixed to a residential lot;

(2) Be manufactured within the ~~[5]~~ ***6*** years immediately preceding the date on which it is affixed to the residential lot;

(3) Have exterior siding and roofing which is similar in color, material and appearance to the exterior siding and roofing primarily used on other single-family residential dwellings in the immediate vicinity of the manufactured home, as established by the governing body;

(4) Consist of more than one section; and

(5) Consist of at least 1,200 square feet of living area unless the governing body, by administrative variance or other expedited procedure established by the governing body, approves a lesser amount of square footage based on the size or configuration of the lot or the square footage of single-family residential dwellings in the immediate vicinity of the manufactured home; and

(b) If the manufactured home has an elevated foundation, the foundation is masked architecturally in a manner determined by the governing body.

➥ The governing body of a local government in a county whose population is less than 40,000 may adopt standards that are less restrictive than the standards set forth in this subsection.

3. Standards adopted by a governing body pursuant to subsection 2 must be objective and documented clearly and must not be adopted to discourage or impede the construction or provision of affordable housing, including, without limitation, the use of manufactured homes for affordable housing.

4. Before a building department issues a permit to place a manufactured home on a lot pursuant to this section, other than a new manufactured home, the owner must surrender the certificate of ownership to the Manufactured Housing Division of the Department of Business and Industry. The Division shall provide proof of such a surrender to the owner who must submit that proof to the building department.

5. The provisions of this section do not abrogate a recorded restrictive covenant prohibiting manufactured homes nor do the provisions apply within the boundaries of a historic district established pursuant to NRS 384.005 or 384.100. An application to place a manufactured home on a residential lot pursuant to this section constitutes an attestation by the owner of the lot that the placement complies with all covenants, conditions and restrictions placed on the lot and that the lot is not located within a historic district.

6. As used in this section:

(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.

(b) "New manufactured home" has the meaning ascribed to it in NRS 489.125.

~~[Sec. 7.]~~ ***Sec. 18.*** (Deleted by amendment.)

~~[Sec. 8.]~~ ***Sec. 19.*** (Deleted by amendment.)

~~[Sec. 9.]~~ ***Sec. 20.*** (Deleted by amendment.)

~~[Sec. 10.]~~ ***Sec. 21.*** (Deleted by amendment.)

~~[Sec. 11.]~~ ***Sec. 22.*** The amendatory provisions of section ~~[6.5]~~ **15** of this act do not apply to a lien that attaches before October 1, 2007.

Assemblyman Manendo moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 304.

Remarks by Assemblyman Manendo.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 476 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 476.

Bill read third time.

Roll call on Senate Bill No. 476:

YEAS—42.

NAYS—None.

Senate Bill No. 476 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 8:16 p.m.

ASSEMBLY IN SESSION

At 8:18 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 255, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 497, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 928 of the Senate be concurred in.

It has agreed to recommend that the Amendment No. 943 of the Senate be receded from and a 2nd reprint be created in accordance with this action which is attached to and hereby made a part of this report.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 44, which is attached to and hereby made a part of this report.

KELVIN ATKINSON	JOHN LEE
MARK MANENDO	MARK AMODEI
PETE GOICOECHEA	
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA44.

SUMMARY—Makes various changes to provisions governing ~~[driver's licenses and public safety.]~~ **transportation.** (BDR 43-642)

AN ACT relating to ~~[public safety;]~~ **transportation;** revising provisions relating to services provided for the control of vehicular traffic related to a special event; requiring proof of insurance to be contained in an application for the registration of a motor vehicle; transferring certain duties for training peace officers from the Department of Motor Vehicles to the Department of

Public Safety; revising provisions governing the revocation of driver's licenses; prohibiting a person who has a temporary driver's license from obtaining another temporary license in certain circumstances; revising provisions governing the issuance of motor vehicle insurance; revising provisions relating to the security that must be deposited when a report of certain motor vehicle accidents involving injury, death or damage to property is received by the Department of Motor Vehicles; **requiring certain employees of the Nevada Transportation Authority to receive certain training; changing the name of the "Transportation Services Authority" to the "Nevada Transportation Authority"; requiring the Authority to appoint a Deputy Commissioner; providing the qualifications and duties of the Deputy Commissioner;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Nevada Highway Patrol may enter into a contract with any person to provide services for the control of vehicular traffic related to a special event. (NRS 480.340) Section 1 of this bill provides that any qualified personnel of the Department of Public Safety, as well as the Nevada Highway Patrol, may provide services for the control of vehicular traffic pursuant to the contract.

Section 1.3 of this bill requires an application for the registration of a motor vehicle to contain proof satisfactory to the Department of Motor Vehicles that the applicant ~~[has provided the insurance required by law,]~~ **carries insurance on the vehicle,** in lieu of signing a declaration indicating that he has provided the insurance. (NRS 482.215, 485.185)

Section 1.7 of this bill transfers the duty of training peace officers in identifying and handling drivers who suffer from a diabetic condition or epileptic seizures from the Department of Motor Vehicles to the Department of Public Safety. (NRS 483.348)

Existing law requires the Department of Motor Vehicles to revoke the driver's license of a person who is convicted of certain felonies involving the use of a vehicle. Existing law further requires the Department to set aside the revocation during any period of imprisonment until the period of imprisonment is completed or until the person has been placed on residential confinement. (NRS 483.460) Sections 2, 11 and 12 of this bill provide instead that the revocation will resume when the Department is notified by the Department of Corrections or the Department of Public Safety that the person has completed his period of imprisonment or has been placed on residential confinement or parole.

Existing law requires a law enforcement officer to revoke the driver's license, permit or privilege to drive of a person who has a concentration of alcohol of 0.08 or more in his blood or breath or who is found to have a detectable amount of a prohibited substance in his blood or urine. The officer is required to advise the person of his right to administrative and judicial review of the revocation and to have a temporary license, valid for 7 days,

which the officer must issue upon request. (NRS 484.385) In addition, if the person requests administrative review of the revocation, the Department of Motor Vehicles is required to issue an additional temporary license which is valid for a period sufficient to complete the administrative review. (NRS 484.387) Sections 3-6 of this bill provide that a person driving with a temporary permit is not entitled to receive an additional temporary permit if he is found again to have driven with a prohibited amount of alcohol in his blood or breath or a prohibited substance in his blood or urine.

Existing law requires each owner of a motor vehicle to maintain a certain amount of insurance against bodily injury or death. (NRS 485.185) Section 7 of this bill requires that such insurance must be obtained from a company that is licensed and has been approved to do business in this State.

Existing law requires the Department of Motor Vehicles to suspend the driver's license or privilege to drive and the motor vehicle registrations of each owner of a motor vehicle involved in a motor vehicle accident involving injury or death when it is determined that the required security has not been deposited and the person has not been released from liability and has not executed an agreement to pay in installments. Existing law requires notice of the suspension to be sent to the person at least 10 days before the effective date of the suspension. (NRS 485.190) Section 8 of this bill requires the suspension to be effective immediately after the determination is made unless the person immediately deposits the security at the hearing.

Under existing law, the Transportation Services Authority regulates fully regulated carriers, operators of tow cars and brokers of regulated services as provided for in chapter 706 of NRS. (NRS 706.151) Sections 13 and 23-25 of this bill change the name of the Transportation Services Authority to the Nevada Transportation Authority.

Section 19 of this bill requires the Authority to adopt regulations specifying the training which its compliance enforcement officers must receive.

Existing law allows the Authority to appoint a Deputy and employ other persons as needed. (NRS 706.176) Section 27 of this bill requires the Authority to appoint a Deputy Commissioner and sets forth the qualifications and duties for the position. Section 27 also requires the Authority to employ compliance enforcement officers and sets forth the duties for those positions.

Existing law provides that an employee designated as an inspector or as Manager of Transportation by the Authority is a peace officer and has police powers. (NRS 289.320) Section 14 of this bill amends this provision to apply only to inspectors.

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

Section 1. NRS 480.340 is hereby amended to read as follows:

480.340 1. Except as otherwise provided in this section, the Chief of the Nevada Highway Patrol may enter into a contract with any person or governmental agency to provide services for the control of vehicular traffic related to or affected by any special event sponsored by the person or agency.

2. Any such contract:

(a) Must require the sponsor of the special event to reimburse the Nevada Highway Patrol for the cost of the services provided.

(b) May require the sponsor to furnish a bond to ensure that reimbursement is made.

(c) Is subject to the following limitations:

(1) The services provided pursuant to the contract must be provided by personnel of the Nevada Highway Patrol ~~[.]~~ ***or other qualified personnel of the Department.***

(2) The services required must not impair the ability of the Nevada Highway Patrol to perform its customary duties.

3. Any money received by the Nevada Highway Patrol pursuant to such a contract must be deposited with the State Treasurer for credit to the State Highway Fund.

4. As used in this section, "special event" has the meaning ascribed to it in NRS 484.900.

Sec. 1.3. NRS 482.215 is hereby amended to read as follows:

482.215 1. All applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) His residential address.

(c) His declaration of the county where he intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5 ~~[, *proof*]~~ **:**

(1) Proof** satisfactory to the Department or registered dealer that the applicant ~~[has provided the]~~ **carries** insurance ~~[required by NRS 485.185 and a]~~ **on the vehicle, and if the insurance is not provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185, the applicant must meet the requirements of NRS 485.185 within 7 calendar days; and

(2) A declaration signed by the applicant that he ~~[has provided the insurance required by NRS 485.185 and]~~ will maintain the insurance ***required by NRS 485.185*** during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this paragraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance:

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle and indicates, at the time of application for registration, coverage which meets the requirements of NRS 485.185; or

(3) In another form satisfactory to the Department.

➥ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

Sec. 1.7. NRS 483.348 is hereby amended to read as follows:

483.348 1. Except as otherwise provided in subsection 2, the Department shall issue a driver's license with a specially colored background to any person who qualifies for a driver's license pursuant to the provisions of this chapter and delivers to the Department a signed statement from a physician that the person is an insulin dependent diabetic or an epileptic. The Department shall designate one color to be used only for a driver's license held by a diabetic and another color to be used only for a driver's license held by an epileptic.

2. In lieu of issuing a driver's license pursuant to subsection 1, the Department may issue to a person specified in that subsection a driver's license with a specially colored border around the photograph on the license.

3. The Department ***of Public Safety*** shall provide for the education of peace officers on the:

(a) Effects and treatment of a person suffering from ~~[insulin shock]~~ ***a diabetic condition*** or an epileptic seizure and the similarity in appearance of a person suffering from ~~[insulin shock]~~ ***a diabetic condition*** or an epileptic seizure to a person under the influence of alcohol or a controlled substance; and

(b) Procedures for identifying and handling situations involving a person suffering from ~~[insulin shock]~~ ***a diabetic condition*** or an epileptic seizure.

Sec. 2. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 2 of NRS 484.377.

(2) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792.

(3) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955.

➥ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume ~~[upon completion of]~~ ***when the Department is notified pursuant to section 11 or 12 of this act that the person has completed*** the period of imprisonment or ~~[when]~~ ***that*** the person ~~[is]~~ ***has been*** placed on residential confinement ~~[.]~~ ***or parole.***

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the

Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 3. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.08 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~[and to have a]~~ ***pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a*** temporary license ***.*** ~~[, and]~~ ***If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer*** shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.08 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.08 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that

the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 4. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.10 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~[and to have a]~~ ***pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a*** temporary license **.** ~~[, and]~~ ***If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer*** shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.10 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.10 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 5. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. ~~[The]~~ ***Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the*** Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.08 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay

of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 6. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. ~~[The]~~ ***Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the*** Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.10 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 7. NRS 485.185 is hereby amended to read as follows:

485.185 Every owner of a motor vehicle which is registered or required to be registered in this State shall continuously provide, while the motor vehicle is present or registered in this State, insurance ~~[:]~~ ***provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State:***

1. In the amount of $15,000 for bodily injury to or death of one person in any one accident;

2. Subject to the limit for one person, in the amount of $30,000 for bodily injury to or death of two or more persons in any one accident; and

3. In the amount of $10,000 for injury to or destruction of property of others in any one accident,

➥ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

Sec. 8. NRS 485.190 is hereby amended to read as follows:

485.190 1. If 20 days after the receipt of a report of an accident involving a motor vehicle within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of $750, the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under subsection 2 ~~[of this section]~~ has been released from liability, has been finally adjudicated not to be liable or has executed an acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Department shall upon request set the matter for a hearing as provided in NRS 485.191.

2. The Department shall ~~[, at any time]~~ ***,*** ***immediately*** after a determination adverse to an operator or owner ***is made in a hearing*** pursuant to NRS 485.191, suspend the license of each operator and all registrations of each owner of a motor vehicle involved in such an accident, and, if the operator is a nonresident, the privilege of operating a motor vehicle within this State, and, if the owner is a nonresident, the privilege of the use within this State of any motor vehicle owned by him, unless the operator or owner, or both, ***immediately*** deposit security in the sum so determined by the Department ~~[. Notice of such a suspension must be sent by the Department to the operator and owner not less than 10 days before the effective date of the suspension and must state the amount required as security.]~~ ***at the hearing.*** If erroneous information is given to the Department with respect to the matters set forth in paragraph (a), (b) or (c) of subsection 1 of NRS 485.200, the Department shall take appropriate action as provided in this section after it receives correct information with respect to those matters.

Sec. 9. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment ~~[,]~~ ***that was entered as a result of an accident involving a motor vehicle,*** the judgment creditor or his attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment ***that was entered as a result of an accident involving a motor vehicle and*** reported to the Department is a nonresident, the Department shall transmit a certified copy of the judgment to the officer in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

Sec. 10. NRS 485.3099 is hereby amended to read as follows:

485.3099 1. The Department shall, upon request, consent to the immediate cancellation of any certificate of financial responsibility or waive

the requirement of filing proof of financial responsibility, in ~~[any of]~~ the following events:

(a) ~~[At any time after 3 years after the date the proof of financial responsibility was required when, during the 3 year period preceding the request, the Department has not received a record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom the proof of financial responsibility was furnished;~~

~~(b)]~~ The death of the person on whose behalf the proof of financial responsibility was filed or the permanent incapacity of the person to operate a motor vehicle; or

~~[(c)]~~ ***(b)*** If the person who is required to file proof of financial responsibility surrenders his license and registration to the Department.

2. If a person who surrenders his license and registration pursuant to paragraph ~~[(c)]~~ ***(b)*** of subsection 1 applies for a license or registration within a period of 3 years after the date proof of financial responsibility was originally required, the application must be refused unless the applicant reestablishes proof of financial responsibility for the remainder of the 3-year period.

Sec. 11. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 has completed a period of imprisonment or is placed on residential confinement. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment or when the person is placed on residential confinement.

Sec. 12. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

The Chief shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 is placed on parole. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment or when the person is placed on residential confinement.

Sec. 13. **NRS 232.510 is hereby amended to read as follows:**

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

(a) Consumer Affairs Division.

(b) Division of Financial Institutions.

(c) Housing Division.
(d) Manufactured Housing Division.
(e) Real Estate Division.
(f) Division of Insurance.
(g) Division of Industrial Relations.
(h) Office of Labor Commissioner.
(i) Taxicab Authority.
(j) Nevada Athletic Commission.
(k) Office of the Nevada Attorney for Injured Workers.
(l) ***Nevada*** Transportation ~~[Services]~~ Authority.
(m) Division of Mortgage Lending.
(n) Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 14. **NRS 289.320 is hereby amended to read as follows:**

289.320 An employee of the ***Nevada*** Transportation ~~[Services]~~ Authority whom it designates as an inspector ~~[or as Manager of Transportation]~~ is a peace officer and has police power for the enforcement of the provisions of:

1. Chapters 706 and 712 of NRS and all regulations of the ***Nevada*** Transportation ~~[Services]~~ Authority or the Department of Motor Vehicles pertaining thereto; and

2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620, inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

Sec. 15. **Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 19, inclusive, of this act.**

Sec. 16. ***"Chairman" means the person designated as Chairman of the Authority by the Governor pursuant to NRS 706.1512.***

Sec. 17. ***"Compliance enforcement officer" means a person employed pursuant to NRS 706.176 whose duties include enforcing certain state statutes and regulations pertaining to motor carriers.***

Sec. 18. ***"Deputy Commissioner" means the person appointed as Deputy Commissioner of the Authority pursuant to NRS 706.176.***

Sec. 19. ***The Authority shall adopt regulations setting forth the training which a compliance enforcement officer employed by the Authority pursuant to NRS 706.176 must complete, including, without limitation, training in commercial vehicle safety inspections provided by the Nevada Highway Patrol.***

Sec. 20. **NRS 706.011 is hereby amended to read as follows:**

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and sections 16 to 19, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, ***and sections 16, 17 and 18 of this act*** have the meanings ascribed to them in those sections.

Sec. 21. **NRS 706.018 is hereby amended to read as follows:**

706.018 "Authority" means the ***Nevada*** Transportation ~~[Services]~~ Authority created pursuant to NRS 706.1511.

Sec. 22. **NRS 706.151 is hereby amended to read as follows:**

706.151 1. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, ***and sections 16 to 19, inclusive, of this act,*** to confer upon the Authority the power and to make it the duty of the Authority to regulate fully regulated carriers, operators of tow cars and brokers of regulated services to the extent provided in this chapter and to confer upon the Department of Motor Vehicles the power to license all motor carriers and to make it the duty of the Department of Motor Vehicles and the Department of Public Safety to enforce the provisions of this chapter and the regulations adopted by the Authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation, to promote safe, adequate, economical and efficient service and to foster sound economic conditions in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for:

(1) Intrastate transportation by fully regulated carriers; and

(2) Towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle,

➥ without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this State.

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 23. **NRS 706.1511 is hereby amended to read as follows:**

706.1511 1. The ***Nevada*** Transportation ~~[Services]~~ Authority is hereby created.

2. The Authority consists of three members appointed by the Governor. After the initial term each member shall serve a term of 4 years.

3. The Governor shall appoint to the Authority members who have at least 2 years of experience in one or more of the following fields:

(a) Accounting.

(b) Business administration.

(c) Economics.

(d) Administrative law.

(e) Transportation.

(f) Professional engineering.

➥ At least one but not more than two of the members appointed must be residents of Clark County.

4. Not more than two of the members may be:

(a) Members of the same political party.

(b) From the same field of experience.

5. All of the members must be persons who are independent of the industries regulated by the Authority. No elected officer of this State or any political subdivision is eligible for appointment.

6. The members of the Authority shall give their entire time to the business of the Authority and shall not pursue any other business or vocation or hold any other office of profit.

7. Each member of the Authority serves at the pleasure of the Governor.

Sec. 24. **NRS 706.1513 is hereby amended to read as follows:**

706.1513 The Authority may sue and be sued in the name of the ***Nevada*** Transportation ~~[Services]~~ Authority.

Sec. 25. **NRS 706.1516 is hereby amended to read as follows:**

706.1516 1. The ***Nevada*** Transportation ~~[Services]~~ Authority Regulatory Fund is hereby created as a special revenue fund. All money collected by the Authority pursuant to law must be deposited in the State Treasury for credit to the Fund.

2. Money in the Fund may be used only to defray the costs of:

(a) Maintaining staff and equipment needed to regulate adequately persons subject to the jurisdiction of the Authority.

(b) Participating in all proceedings relevant to the jurisdiction of the Authority.

(c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that maintenance and participation.

(d) The salaries, travel expenses and subsistence allowances of the members of the Authority.

3. All claims against the Fund must be paid as other claims against the State are paid.

4. The Authority must furnish upon request a statement showing the balance remaining in the Fund as of the close of the preceding fiscal year.

Sec. 26. **NRS 706.1715 is hereby amended to read as follows:**

706.1715 1. The Attorney General shall:

(a) Act as counsel and attorney for the Authority in all actions, proceedings and hearings.

(b) Prosecute in the name of the ***Nevada*** Transportation ~~[Services]~~ Authority all civil actions for the enforcement of this chapter and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Authority in the performance of its duties and the enforcement of this chapter.

2. The Attorney General or any district attorney may prosecute any violation of this chapter or chapter 712 of NRS for which a criminal penalty is provided.

Sec. 27. **NRS 706.176 is hereby amended to read as follows:**

706.176 ***1.*** The Authority ~~[may:~~

~~1. Appoint a Deputy who serves in the unclassified service of the State.~~

~~2. Employ]~~ ***shall appoint a Deputy Commissioner who:***

(a) Must be knowledgeable and experienced in public administration and fiscal management;

(b) Must be knowledgeable in the areas of motor carrier regulation by the Authority; and

(c) Must be independent of and have no pecuniary interest in any entity regulated by the Authority.

2. The Deputy Commissioner shall:

(a) Serve as Chief Financial Officer for the Authority and is responsible for directing the daily operation of the Authority, including, without limitation:

(1) Budget preparation;

(2) Administration;

(3) Human resources;

(4) Purchases and acquisitions made by the Authority; and

(5) Contracts and leases entered into by the Authority;

(b) Develop and implement policies and procedures to ensure the efficient operation of the Authority;

(c) Oversee:

(1) The review of applications for certificates, permits and modifications of tariffs;

(2) The maintenance of a hearing calendar of all matters pending before the Authority; and

(3) Compliance with and enforcement of State statutes and regulations pertaining to motor carriers which are regulated by the Authority; and

(d) Authenticate documents and serve as custodian of all agency records.

3. The Deputy Commissioner is in the unclassified service of the State.

4. The Authority shall employ compliance enforcement officers whose duties shall include, without limitation, enforcement activities to ensure motor carriers are operating in compliance with State statutes and regulations, conducting operational inspections of motor carriers and investigating complaints against motor carriers.

5. The Authority may employ such other personnel as may be necessary.

Sec. 28. **On October 1, 2007, the State Controller shall transfer all assets and liabilities from the Transportation Services Authority Regulatory Fund to the Nevada Transportation Authority Regulatory Fund created pursuant to section 23 of this act.**

Sec. 29. **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. 13.]~~ ***Sec. 30.*** 1. This section and section 1 of this act become effective upon passage and approval.

2. **Sections 13 to 29, inclusive, of this act, become effective upon passage and approval for the purpose of adopting regulations and conducting any preliminary activities necessary to ensure that the provisions of this act are carried out in an orderly fashion and on October 1, 2007, for all other purposes.**

3. Sections 1.3, 1.7, 3, 5 and 7 to 10, inclusive, of this act become effective on October 1, 2007.

~~[3.]~~ **4.** Sections 2, 11 and 12 of this act become effective on March 1, 2008.

~~[4.]~~ **5.** Sections 3 and 5 of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

~~[5.]~~ **6.** Sections 4 and 6 of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

Assemblyman Atkinson moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 497.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 629—AN ACT relating to financial administration; making appropriations for various projects and programs that benefit the residents of this State; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 255.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1167.

AN ACT relating to accommodation; ~~[providing for]~~ **authorizing** the creation and maintenance of a statewide low-income housing database; creating **a** new ~~[definitions]~~ **definition** of "affordable housing" **;** ~~[and "attainable housing";]~~ revising old definitions of "affordable housing"; ~~[revising provisions relating to "affordable housing" to include new definitions of "affordable housing" and "attainable housing";]~~ revising provisions regarding unlawful discrimination in public accommodations to include sexual orientation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains numerous provisions relating to "affordable housing." (Chapters 233J, 244, 244A, 268, 277, 278, 279, 279A, 279B, 319, 349 and 375 of NRS).

Section 2 of this bill creates a new definition for "affordable housing" as housing affordable for a family with an income of 80 percent or less of their county median income. ~~[Section 18 of this bill creates a new definition for "attainable housing" as housing affordable for a family with an income of more than 80 percent but equal to or less than 120 percent of their county median income. Sections 6-17 and 19-45]~~ **Sections 6-15 and 20-45** of this bill make necessary amendments so that ~~[these new definitions apply]~~ **the definition applies** throughout most of NRS.

Sections 3 and 4 of this bill ~~[provide for the creation and maintenance of]~~ **authorize the Housing Division of the Department of Business and Industry to create and maintain** a statewide low-income housing database. Section 5 of this bill requires that owners of residential rental units that are receiving or have received government money for those housing units must report certain information regarding those units on a quarterly basis.

Existing law declares that all persons are entitled to full and equal enjoyment of the goods, services, facilities, privileges, advantages and

accommodations of any places of public accommodation, without discrimination or segregation on the ground of race, color, religion, national origin or disability. (NRS 651.070) Sections 45.3-45.7 of this bill add sexual orientation as a class protected from discrimination in public accommodation.

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

Section 1. Chapter 319 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***"Affordable housing" means housing affordable for a family with a total gross income equal to or less than 80 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.***

Sec. 2.1. (Deleted by amendment.)

Sec. 2.3. (Deleted by amendment.)

Sec. 2.7. (Deleted by amendment.)

Sec. 3. ***1. The*** ~~*[demographer employed pursuant to NRS 360.283 shall]*~~ ***Division may provide for the creation and maintenance of a statewide low-income housing database.***

2. ~~*[The]*~~ ***If the Division creates and maintains a statewide low-income housing database pursuant to subsection 1, the database must include, without limitation, the compilation and analysis of demographic, economic and housing data from a variety of sources that:***

(a) Provides for an annual assessment of the affordable housing market at the city and county level, including data relating to housing units, age of housing, rental rates and rental vacancy rates, new home sales and resale of homes, new construction permits, mobile homes, lots available for mobile homes, and conversions of multifamily condominiums;

(b) Addresses the housing needs of various population groups in Nevada, such as households that rent, homeowners, elderly households, veterans, persons with disabilities or special needs, homeless persons, recovering drug abusers, persons suffering from mental health ailments and abused women, with each group broken down to show the percentage of the population group at different income levels, and a determination of the number of households within each special needs group experiencing housing costs greater than 50 percent of their income, overcrowding or substandard housing;

(c) Contains an estimate of the number and condition of subsidized and other low-income housing units at the county level and the identification of any subsidized units that are forecast to convert to market-rate units within a 2-year planning period;

(d) Provides a demographic and economic overview by local and county jurisdiction, if feasible, for the population of Nevada, including age, race

and ethnicity, household size, migration, current and forecast employment, household income and a summary relating to the effects of demographics and economic factors on housing demand;

(e) Provides the number of housing units available to a victim of domestic violence from any housing authority, as defined in NRS 315.021, and from participation in the program of housing assistance pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f; and

(f) Provides the number of terminations of victims of domestic violence in this State from the program of housing assistance pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f.

Sec. 4. ***If the Division creates a database pursuant to section 3 of this act:***

1. The costs of the database ~~*[described in section 3 of this act]*~~ ***must be paid from the Account for Low-Income Housing created pursuant to NRS 319.500*** ~~*[.]*~~ ***; and***

2. The amount used for the database must not exceed $175,000 per year.

Sec. 5. ***If an owner of residential housing that is accessible or affordable and is available for rent or lease in this State has received any loans, grants or contributions for the residential housing from the Federal Government, the State or any public body, the owner shall, not less than quarterly, report to the Office of Disability Services of the Department of Health and Human Services all of those residential housing units which are available and suitable for persons with disabilities.***

Sec. 6. NRS 319.030 is hereby amended to read as follows:

319.030 As used in this chapter, the words and terms defined in NRS 319.040 to 319.135, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 6.5. NRS 319.060 is hereby amended to read as follows:

319.060 "Eligible family" means a person or family, selected without regard to race, creed, national origin or sex, determined by the Division to require such assistance as is made available by this chapter on account of insufficient personal or family income after taking into consideration, without limitation, such factors as:

1. The amount of the total income of that person or family available for housing needs;

2. The size of the family;

3. The cost and condition of housing facilities available;

4. The ability of the person or family to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing;

5. If appropriate, standards established for various federal programs determining eligibility based on income of those persons and families; and

6. Service in the Armed Forces of the United States with a minimum of 90 days on active duty at some time between:

(a) April 21, 1898, and June 15, 1903;

(b) April 6, 1917, and November 11, 1918;

(c) December 7, 1941, and December 31, 1946;

(d) June 25, 1950, and January 31, 1955; ~~[or]~~

(e) January 1, 1961, and May 7, 1975 ~~[,]~~ ***;***

(f) August 2, 1990, and April 3, 1991; or

(g) September 11, 2001, and the date on which the Federal Government declares officially that the War on Terror has ended,

➥ and at least 2 years' continuous residence in Nevada immediately preceding any application for assistance under this chapter.

Sec. 7. NRS 319.147 is hereby amended to read as follows:

319.147 1. The Division shall certify an assisted living facility for the purpose of providing services pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708 if the facility:

(a) Provides assisted living supportive services to senior citizens of low or moderate income;

(b) Provides or arranges for the provision of case management services for its residents;

(c) Guarantees ~~[affordable]~~ housing ***for persons of low or moderate income*** for a period of at least 15 years after the facility is certified;

(d) Is financed through tax credits relating to low-income housing or other public funds; and

(e) Satisfies any other requirements set forth by the Division in any regulations adopted by the Division.

2. The Division shall adopt regulations concerning the certification of assisted living facilities pursuant to this section.

3. As used in this section:

(a) "Assisted living facility" has the meaning ascribed to it in paragraph (a) of subsection 3 of NRS 422.2708.

(b) "Assisted living supportive services" has the meaning ascribed to it in paragraph (b) of subsection 3 of NRS 422.2708.

Sec. 8. NRS 319.510 is hereby amended to read as follows:

319.510 1. Money deposited in the Account for Low-Income Housing must be used:

(a) For the acquisition, construction or rehabilitation of ***affordable*** housing for eligible families by public or private nonprofit charitable organizations, housing authorities or local governments through loans, grants or subsidies;

(b) To provide technical and financial assistance to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction or rehabilitation of ***affordable*** housing for eligible families;

(c) To provide funding for projects of public or private nonprofit charitable organizations, housing authorities or local governments that

provide assistance to or guarantee the payment of rent or deposits as security for rent for eligible families, including homeless persons;

(d) To reimburse the Division for the costs of administering the Account; and

(e) In any other manner consistent with this section to assist eligible families in obtaining or keeping ***affordable*** housing, including use as the State's contribution to facilitate the receipt of related federal money.

2. Except as otherwise provided in this subsection, the Division may expend money from the Account as reimbursement for the necessary costs of efficiently administering the Account and any money received pursuant to 42 U.S.C. §§ 12701 et seq. In no case may the Division expend more than $40,000 per year or an amount equal to 6 percent of any money made available to the State pursuant to 42 U.S.C. §§ 12701 et seq., whichever is greater. ***In addition, the Division may expend money from the Account as required by section 4 of this act.*** Of the remaining money allocated from the Account:

(a) Except as otherwise provided in subsection 3, 15 ~~*[Fifteen]*~~ percent ***of the money that is deposited in the Account pursuant to paragraph (a) of subsection 1 of NRS 375.070*** must be distributed to the Division of Welfare and Supportive Services of the Department of Health and Human Services for use in its program developed pursuant to 45 C.F.R. § 233.120 to provide emergency assistance to needy families with children, subject to the following:

(1) The Division of Welfare and Supportive Services shall adopt regulations governing the use of the money that are consistent with the provisions of this section.

(2) The money must be used solely for activities relating to low-income housing that are consistent with the provisions of this section.

(3) The money must be made available to families that have children and whose income is at or below the federally designated level signifying poverty.

(4) All money provided by the Federal Government to match the money distributed to the Division of Welfare and Supportive Services pursuant to this section must be expended for activities consistent with the provisions of this section.

(b) ~~[Eighty-five]~~ ***All of the remaining money in the Account other than the money that is deposited pursuant to paragraph (a) of subsection 1 of NRS 375.070, and 85*** percent ***of the money that is deposited in the Account pursuant to paragraph (a) of subsection 1 of NRS 375.070,*** must be distributed to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction and rehabilitation of ***affordable*** housing for eligible families, subject to the following:

(1) Priority must be given to those projects that qualify for the federal tax credit relating to low-income housing.

(2) Priority must be given to those projects that anticipate receiving federal money to match the state money distributed to them.

(3) Priority must be given to those projects that have the commitment of a local government to provide assistance to them.

(4) ~~[All]~~ ***Except as otherwise provided in this subparagraph, all*** money must be used to benefit families ~~[whose income does not exceed 60 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.]~~ ***eligible for affordable housing. Money that is deposited in the Account pursuant to paragraph (a) of subsection 1 of NRS 375.070 must be used to benefit families with a total gross income equal to or less than 60 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.***

(5) Not less than 15 percent of the units acquired, constructed or rehabilitated must be affordable to persons whose income is at or below the federally designated level signifying poverty. For the purposes of this subparagraph, a unit is affordable if a family does not have to pay more than 30 percent of its gross income for housing costs, including both utility and mortgage or rental costs.

(6) To be eligible to receive money pursuant to this paragraph, a project must be sponsored by a local government.

3. The Division may, pursuant to contract and in lieu of distributing money ***that is deposited in the Account pursuant to paragraph (a) of subsection 1 of NRS 375.070*** to the Division of Welfare and Supportive Services pursuant to paragraph (a) of subsection 2, distribute any amount of that money to private or public nonprofit entities for use consistent with the provisions of this section.

Sec. 9. Chapter 233J of NRS is hereby amended by adding thereto the provisions set forth as sections 10, 11 and 12 of this act.

Sec. 10. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 233J.010 and*** ~~*[sections 11 and 12]*~~ ***section 11 of this act have the meanings ascribed to them in those sections.***

Sec. 11. ***"Affordable housing" has the meaning ascribed to it in section 2 of this act.***

Sec. 12. ~~*["Attainable housing" has the meaning ascribed to it in section 18 of this act.]*~~ **(Deleted by amendment.)**

Sec. 13. NRS 233J.010 is hereby amended to read as follows:

233J.010 ~~[As used in this chapter, unless the context otherwise requires,]~~ "Commission" means the Nevada Commission on Minority Affairs created by NRS 233J.020.

Sec. 14. ~~[NRS 233J.060 is hereby amended to read as follows:~~

~~233J.060 The Commission shall, within the limits of available money:~~

~~1. Study matters affecting the social and economic welfare and well-being of minorities residing in the State of Nevada;~~

~~2. Collect and disseminate information on activities, programs and essential services available to minorities in the State of Nevada;~~

~~3. Study the:~~

~~(a) Availability of employment for minorities in this State, and the manner in which minorities are employed;~~

~~(b) Manner in which minorities can be encouraged to start and manage their own businesses successfully; and~~

~~(c) Availability of affordable housing *and attainable housing* for minorities;~~

~~4. In cooperation with the Nevada Equal Rights Commission, act as a liaison to inform persons regarding:~~

~~(a) The laws of this State that prohibit discriminatory practices; and~~

~~(b) The procedures pursuant to which aggrieved persons may file complaints or otherwise take action to remedy such discriminatory practices;~~

~~5. To the extent practicable, strive to create networks within the business community between businesses that are owned by minorities and businesses that are not owned by minorities;~~

~~6. Advise the Governor on matters relating to minorities and of concern to minorities; and~~

~~7. Recommend proposed legislation to the Governor.]~~ **(Deleted by amendment.)**

Sec. 15. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 16, 17 and 18 of this act.

Sec. 16. ***As used in this chapter, unless the context otherwise requires,*** ***[the words and terms defined in sections 17 and 18 of this act have the meanings ascribed to them in those sections.]*** ***"affordable housing" has the meaning ascribed to it in section 2 of this act.***

Sec. 17. ***[**"Affordable housing" has the meaning ascribed to it in section 2 of this act.]*** **(Deleted by amendment.)**

Sec. 18. ***[**"Attainable housing" means housing affordable for a family with a total gross income greater than 80 percent and equal to or less than 120 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.]*** **(Deleted by amendment.)**

Sec. 19. ~~[NRS 244.189 is hereby amended to read as follows:~~

~~244.189 1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, a board of county commissioners may exercise such powers and enact such ordinances, not in conflict with the provisions of NRS or other laws or regulations of this State, as the board determines are necessary and proper for:~~

~~(a) The development of affordable housing [;] *and attainable housing;*~~

~~(b) The control and protection of animals;~~

~~(c) The rehabilitation of rental property in residential neighborhoods; and~~

~~(d) The rehabilitation of abandoned residential property.~~

~~2. The board of county commissioners shall not impose or increase a tax unless the tax or increase is otherwise authorized by specific statute.~~

~~3. The board of county commissioners may, in lieu of a criminal penalty, provide a civil penalty for a violation of an ordinance enacted pursuant to this section unless state law provides a criminal penalty for the same act or omission.]~~ **(Deleted by amendment.)**

Sec. 20. NRS 244.287 is hereby amended to read as follows:

244.287 1. A nonprofit organization may submit to a board of county commissioners an application for conveyance of property that is owned by the county if the property was:

(a) Received by donation for the use and benefit of the county pursuant to NRS 244.270.

(b) Purchased by the county pursuant to NRS 244.275.

2. Before the board of county commissioners makes a determination on such an application for conveyance, it shall hold at least one public hearing on the application. Notice of the time, place and specific purpose of the hearing must be:

(a) Published at least once in a newspaper of general circulation in the county.

(b) Mailed to all owners of record of real property which is located not more than 300 feet from the property that is proposed for conveyance.

(c) Posted in a conspicuous place on the property that is proposed for conveyance.

➥ The hearing must be held not ~~[fewer]~~ ***less*** than 10 days but not more than 40 days after the notice is published, mailed and posted in accordance with this subsection.

3. The board of county commissioners may approve such an application for conveyance if the nonprofit organization demonstrates to the satisfaction of the board that the organization or its assignee will use the property to develop affordable housing**_.** ~~[for families whose income at the time of application for such housing does not exceed 80 percent of the median gross income for families residing in the same county, as that percentage is defined by the United States Department of Housing and Urban Development.]~~ ~~*[for attainable housing.]*~~ If the board of county commissioners receives more than one application for conveyance of the property, the board must give priority to an application of a nonprofit organization that demonstrates to the satisfaction of the board that the organization or its assignee will use the property to develop affordable housing ~~*[for attainable housing]*~~ for persons who are disabled or elderly.

4. If the board of county commissioners approves an application for conveyance, it may convey the property to the nonprofit organization without consideration. Such a conveyance must not be in contravention of any condition in a gift or devise of the property to the county.

5. As a condition to the conveyance of the property pursuant to subsection 4, the board of county commissioners shall enter into an

agreement with the nonprofit organization that requires the nonprofit organization or its assignee to use the property to provide affordable housing ~~[or attainable housing, as applicable,]~~ for at least 50 years. If the nonprofit organization or its assignee fails to use the property to provide affordable housing ~~[or attainable housing, as applicable,]~~ pursuant to the agreement, the board of county commissioners may take reasonable action to return the property to use as affordable housing , ~~[or attainable housing, as applicable,]~~ including, without limitation:

(a) Repossessing the property from the nonprofit organization or its assignee.

(b) Transferring ownership of the property from the nonprofit organization or its assignee to another person or governmental entity that will use the property to provide affordable housing , ~~[or attainable housing, as applicable.]~~

6. The agreement required by subsection 5 must be recorded in the office of the county recorder of the county in which the property is located and must specify:

(a) The number of years for which the nonprofit organization or its assignee must use the property to provide affordable housing ; ~~[or attainable housing, as applicable;]~~ and

(b) The action that the board of county commissioners will take if the nonprofit organization or its assignee fails to use the property to provide affordable housing ~~[or attainable housing, as applicable,]~~ pursuant to the agreement.

7. A board of county commissioners that has conveyed property pursuant to subsection 4 shall:

(a) Prepare annually a list which includes a description of all property that was conveyed to a nonprofit organization pursuant to this section; and

(b) Include the list in the annual audit of the county which is conducted pursuant to NRS 354.624.

8. If, 5 years after the date of a conveyance pursuant to subsection 4, a nonprofit organization or its assignee has not commenced construction of affordable housing , ~~[or attainable housing, as applicable,]~~ or entered into such contracts as are necessary to commence the construction of affordable housing , ~~[or attainable housing, as applicable,]~~ the property that was conveyed automatically reverts to the county.

9. A board of county commissioners may subordinate the interest of the county in property conveyed pursuant to subsection 4 to a first or subsequent holder of a mortgage on that property to the extent the board deems necessary to promote investment in the construction of affordable housing . ~~[or attainable housing, as applicable.]~~

10. As used in this section, unless the context otherwise requires, "nonprofit organization" means an organization that is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3).

Sec. 21. NRS 268.058 is hereby amended to read as follows:

268.058 1. A nonprofit organization may submit to the governing body of a city an application for conveyance of property that is owned by the city if the property was purchased or received by the city pursuant to NRS 268.008.

2. Before the governing body makes a determination on such an application for conveyance, it shall hold at least one public hearing on the application. Notice of the time, place and specific purpose of the hearing must be:

(a) Published at least once in a newspaper of general circulation in the city.

(b) Mailed to all owners of record of real property which is located not more than 300 feet from the property that is proposed for conveyance.

(c) Posted in a conspicuous place on the property that is proposed for conveyance.

➥ The hearing must be held not ~~[fewer]~~ ***less*** than 10 days but not more than 40 days after the notice is published, mailed and posted in accordance with this subsection.

3. The governing body may approve such an application for conveyance if the nonprofit organization demonstrates to the satisfaction of the governing body that the organization or its assignee will use the property to develop affordable housing**.** ~~[for families whose income at the time of application for such housing does not exceed 80 percent of the median gross income for families residing in the same city, as that percentage is defined by the United States Department of Housing and Urban Development.]~~ ~~*[or attainable housing.]*~~ If the governing body receives more than one application for conveyance of the property, the governing body must give priority to an application of a nonprofit organization that demonstrates to the satisfaction of the governing body that the organization or its assignee will use the property to develop affordable housing ~~*[or attainable housing]*~~ for persons who are disabled or elderly.

4. If the governing body approves an application for conveyance, it may convey the property to the nonprofit organization without consideration. Such a conveyance must not be in contravention of any condition in a gift or devise of the property to the city.

5. As a condition to the conveyance of the property pursuant to subsection 4, the governing body shall enter into an agreement with the nonprofit organization that requires the nonprofit organization or its assignee to use the property to provide affordable housing ~~*[or attainable housing, as applicable,]*~~ for at least 50 years. If the nonprofit organization or its assignee fails to use the property to provide affordable housing ~~*[or attainable housing, as applicable,]*~~ pursuant to the agreement, the governing body may take reasonable action to return the property to use as affordable housing **.** ~~*[or attainable housing, as applicable,]*~~ including, without limitation:

(a) Repossessing the property from the nonprofit organization or its assignee.

(b) Transferring ownership of the property from the nonprofit organization or its assignee to another person or governmental entity that will use the property to provide affordable housing . ~~[or attainable housing, as applicable.]~~

6. The agreement required by subsection 5 must be recorded in the office of the county recorder of the county in which the property is located and must specify:

(a) The number of years for which the nonprofit organization or its assignee must use the property to provide affordable housing ; ~~[or attainable housing, as applicable;]~~ and

(b) The action that the governing body will take if the nonprofit organization or its assignee fails to use the property to provide affordable housing ~~[or attainable housing, as applicable,]~~ pursuant to the agreement.

7. A governing body that has conveyed property pursuant to subsection 4 shall:

(a) Prepare annually a list which includes a description of all property conveyed to a nonprofit organization pursuant to this section; and

(b) Include the list in the annual audit of the city which is conducted pursuant to NRS 354.624.

8. If, 5 years after the date of a conveyance pursuant to subsection 4, a nonprofit organization or its assignee has not commenced construction of affordable housing , ~~[or attainable housing, as applicable,]~~ or entered into such contracts as are necessary to commence the construction of affordable housing , ~~[or attainable housing, as applicable,]~~ the property that was conveyed automatically reverts to the city.

9. A governing body may subordinate the interest of the city in property conveyed pursuant to subsection 4 to a first or subsequent holder of a mortgage on that property to the extent the governing body deems necessary to promote investment in the construction of affordable housing . ~~[or attainable housing, as applicable.]~~

10. As used in this section, unless the context otherwise requires, "nonprofit organization" means an organization that is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3).

11. As used in this section ~~[:~~

~~*(a) "Affordable]*~~ ***, "affordable housing" has the meaning ascribed to it in section 2 of this act.*** ~~*[; and*~~

~~*(b) "Attainable housing" has the meaning ascribed to it in section 18 of this act.]*~~

Sec. 22. NRS 268.190 is hereby amended to read as follows:

268.190 Except as otherwise provided by law, the city planning commission may:

1. Recommend and advise the city council and all other public authorities concerning:

(a) The laying out, widening, extending, paving, parking and locating of streets, sidewalks and boulevards.

(b) The betterment of housing and sanitary conditions, and the establishment of zones or districts within which lots or buildings may be restricted to residential use, or from which the establishment, conduct or operation of certain business, manufacturing or other enterprises may be excluded, and limiting the height, area and bulk of buildings and structures therein.

2. Recommend to the city council and all other public authorities plans and regulations for the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, which must include for each city a population plan if required by NRS 278.170 and a plan for the development of affordable housing . ~~[and attainable housing.]~~

3. Perform any other acts and things necessary or proper to carry out the provisions of NRS 268.110 to 268.220, inclusive, and in general to study and propose such measures as may be for the municipal welfare and in the interest of protecting the municipal area's natural resources from impairment.

4. As used in this section ~~[:~~

~~(a) "Affordable]~~ , "affordable housing" has the meaning ascribed to it in section 2 of this act . ~~[; and~~

~~(b) "Attainable housing" has the meaning ascribed to it in section 18 of this act.]~~

Sec. 23. NRS 277.360 is hereby amended to read as follows:

277.360 1. A regional development district may establish a nonprofit corporation for any purpose for which the district is authorized to act pursuant to NRS 277.300 to 277.390, inclusive, including increasing the supply of affordable housing ~~[and attainable housing]~~ and improving opportunities for home ownership in a development region. A nonprofit corporation formed pursuant to this section may, among other things, acquire land and buildings, accept private, state and federal grant and loan funds, construct and rehabilitate housing units, and buy, sell or manage housing within the boundaries of the development district.

2. A regional development district may receive and administer private, state and federal affordable housing ~~[and attainable housing]~~ funds to increase the supply of affordable housing ~~[and attainable housing]~~ and to improve opportunities for home ownership within the boundaries of the district. The creation of a regional development district does not affect the right of a county or city to receive and administer affordable housing ~~[or attainable housing]~~ funds or to develop and implement subregional affordable housing ~~[or attainable housing]~~ programs.

3. As used in this section ~~[:~~

~~(a) "Affordable]~~ , "affordable housing" has the meaning ascribed to it in section 2 of this act.

~~[(b) "Attainable housing" has the meaning ascribed to it in section 18 of this act.]~~

Sec. 24. ~~[Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*"Attainable housing" has the meaning ascribed to it in section 18 of this act.]~~ **(Deleted by amendment.)**

Sec. 25. ~~[NRS 278.010 is hereby amended to read as follows:~~

~~278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 24 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, *and section 24 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 26. NRS 278.0105 is hereby amended to read as follows:

278.0105 "Affordable housing" ~~[means housing affordable for a family with a total gross income less than 110 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.]~~ ***has the meaning ascribed to it in section 2 of this act.***

Sec. 27. ~~[NRS 278.020 is hereby amended to read as follows:~~

~~278.020 1. For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing bodies of cities and counties are authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures.~~

~~2. Any such regulation, restriction and control must take into account:~~

~~(a) The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and~~

~~(b) The availability of and need for affordable housing *and attainable housing* in the community, including affordable housing *and attainable housing* that is accessible to persons with disabilities.]~~ **(Deleted by amendment.)**

Sec. 28. ~~[NRS 278.02095 is hereby amended to read as follows:~~

~~278.02095 1. Except as otherwise provided in this section, in an ordinance relating to the zoning of land adopted or amended by a governing body, the definition of "single-family residence" must include a manufactured home.~~

~~2. Notwithstanding the provisions of subsection 1, a governing body shall adopt standards for the placement of a manufactured home that will not be affixed to a lot within a mobile home park which require that:~~

~~(a) The manufactured home:~~

~~(1) Be permanently affixed to a residential lot;~~

~~(2) Be manufactured within the 5 years immediately preceding the date on which it is affixed to the residential lot;~~

~~(3) Have exterior siding and roofing which is similar in color, material and appearance to the exterior siding and roofing primarily used on other single-family residential dwellings in the immediate vicinity of the manufactured home, as established by the governing body;~~

~~(4) Consist of more than one section; and~~

~~(5) Consist of at least 1,200 square feet of living area unless the governing body, by administrative variance or other expedited procedure established by the governing body, approves a lesser amount of square footage based on the size or configuration of the lot or the square footage of single-family residential dwellings in the immediate vicinity of the manufactured home; and~~

~~(b) If the manufactured home has an elevated foundation, the foundation is masked architecturally in a manner determined by the governing body.~~

~~➡ The governing body of a local government in a county whose population is less than 40,000 may adopt standards that are less restrictive than the standards set forth in this subsection.~~

~~3. Standards adopted by a governing body pursuant to subsection 2 must be objective and documented clearly and must not be adopted to discourage or impede the construction or provision of affordable housing [,] or *attainable housing*, including, without limitation, the use of manufactured homes for affordable housing [.] *or attainable housing*.~~

~~4. Before a building department issues a permit to place a manufactured home on a lot pursuant to this section, other than a new manufactured home, the owner must surrender the certificate of ownership to the Manufactured Housing Division of the Department of Business and Industry. The Division shall provide proof of such a surrender to the owner who must submit that proof to the building department.~~

~~5. The provisions of this section do not abrogate a recorded restrictive covenant prohibiting manufactured homes nor do the provisions apply within the boundaries of a historic district established pursuant to NRS 384.005 or 384.100. An application to place a manufactured home on a residential lot pursuant to this section constitutes an attestation by the owner of the lot that the placement complies with all covenants, conditions and restrictions placed on the lot and that the lot is not located within a historic district.~~

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

~~(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.~~

~~(b) "New manufactured home" has the meaning ascribed to it in NRS 489.125.]~~ **(Deleted by amendment.)**

Sec. 29. ~~[NRS 278.160 is hereby amended to read as follows:~~

~~278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:~~

~~(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.~~

~~(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.~~

~~(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.~~

~~(d) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.~~

~~(e) Housing plan. The housing plan must include, without limitation:~~

~~(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing.~~

~~(2) An inventory of affordable housing *and attainable housing* in the community.~~

~~(3) An analysis of the demographic characteristics of the community.~~

~~(4) A determination of the present and prospective need for affordable housing *and attainable housing* in the community.~~

~~(5) An analysis of any impediments to the development of affordable housing *and attainable housing* and the development of policies to mitigate those impediments.~~

~~(6) An analysis of the characteristics of the land that is the most appropriate for the construction of affordable housing [.] *and attainable housing.*~~

~~(7) An analysis of the needs and appropriate methods for the construction of affordable housing *and attainable housing* or the conversion or rehabilitation of existing housing to affordable housing [.] *or attainable housing.*~~

~~(8) A plan for maintaining and developing affordable housing *and attainable housing* to meet the housing needs of the community.~~

~~(f) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:~~

~~(1) Must address, if applicable, mixed use development, transit oriented development, master planned communities and gaming enterprise districts.~~

~~(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including,~~

~~without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.~~

~~(g) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.~~

~~(h) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.~~

~~(i) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights of way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.~~

~~(j) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.~~

~~(k) Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.~~

~~(l) Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.~~

~~(m) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.~~

~~(n) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.~~

~~(o) Solid waste disposal plan. Showing general plans for the disposal of solid waste.~~

~~(p) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.~~

~~(q) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.~~

~~(r) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights of way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.~~

~~2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, *and section 24 of this act* prohibits the preparation and adoption of any such subject as a part of the master plan.]~~ **(Deleted by amendment.)**

Sec. 30. ~~[NRS 278.230 is hereby amended to read as follows:~~

~~278.230 1. Except as otherwise provided in subsection 4 of NRS 278.150, whenever the governing body of any city or county has adopted a master plan or part thereof for the city or county, or for any major section or district thereof, the governing body shall, upon recommendation of the planning commission, determine upon reasonable and practical means for putting into effect the master plan or part thereof, in order that the same will serve as:~~

~~(a) A pattern and guide for that kind of orderly physical growth and development of the city or county which will cause the least amount of natural resource impairment and will conform to the adopted population plan, where required, and ensure an adequate supply of housing, including affordable housing [;] *and attainable housing;* and~~

~~(b) A basis for the efficient expenditure of funds thereof relating to the subjects of the master plan.~~

~~2. The governing body may adopt and use such procedure as may be necessary for this purpose.]~~ **(Deleted by amendment.)**

Sec. 31. ~~[NRS 278.250 is hereby amended to read as follows:~~

~~278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, *and section 24 of this act*, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive [.] *, and section 24 of this act.* Within the zoning district, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.~~

~~2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:~~

~~(a) To preserve the quality of air and water resources.~~

~~(b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.~~

~~(c) To consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.~~

~~(d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.~~

~~(e) To provide for recreational needs.~~

~~(f) To protect life and property in areas subject to floods, landslides and other natural disasters.~~

~~(g) To conform to the adopted population plan, if required by NRS 278.170.~~

~~(h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.~~

~~(i) To ensure that the development on land is commensurate with the character and the physical limitations of the land.~~

~~(j) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.~~

~~(k) To promote health and the general welfare.~~

~~(l) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing~~ [.] ~~*and attainable housing.*~~

~~(m) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods.~~

~~(n) To promote systems which use solar or wind energy.~~

~~3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.~~

~~4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.~~

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

~~(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing~~ [.] ~~*or attainable housing.*~~

~~(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds residential dwellings to build a certain percentage of those dwellings as affordable housing~~ [.] ~~*or attainable housing.*~~

~~(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.]~~ **(Deleted by amendment.)**

Sec. 32. Chapter 279 of NRS is hereby amended by adding thereto the provisions set forth as sections 33 and 34 of this act.

Sec. 33. ***"Affordable housing" has the meaning ascribed to it in section 2 of this act.***

Sec. 34. ~~*[“Attainable housing” has the meaning ascribed to it in section 18 of this act.]*~~ **(Deleted by amendment.)**

Sec. 35. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and*** ~~*[sections 33 and 34]*~~ ***section 33 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, ***and*** ~~*[sections 33 and 34]*~~ ***section 33 of this act*** have the meanings ascribed to them in those sections.

Sec. 36. NRS 279.397 is hereby amended to read as follows:

279.397 ”Low-income household” means a household ~~[,]~~ which may include one or more persons ~~[, whose total gross income is less than 80 percent of the median gross income for households of the same size within the same geographic region.]~~ ***and which is eligible for affordable housing . [for attainable housing.]***

Sec. 37. ~~[NRS 279.425 is hereby amended to read as follows:~~

~~279.425 It is further found and declared that:~~

~~1. The provision of housing is a fundamental purpose of the Community Redevelopment Law and that a generally inadequate supply of decent, safe and sanitary housing available to low income households threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including, without limitation, creating new employment opportunities, attracting new private investments of money in the area and creating physical, economic, social and environmental conditions to remove and prevent the recurrence of blight.~~

~~2. The provision and improvement of housing which can be rented or sold to families with low incomes and which is inside or outside the boundaries of the redevelopment area can be of direct benefit to the redevelopment area in assisting the accomplishment of project objectives whether or not the redevelopment plan provides for housing within the project area.~~

~~3. The provision of affordable housing *and attainable housing* by redevelopment agencies and the use of taxes allocated to the agency pursuant thereto is of statewide benefit and assistance to all local governmental agencies in the areas where housing is provided.]~~ **(Deleted by amendment.)**

Sec. 38. NRS 279A.010 is hereby amended to read as follows:

279A.010 The Legislature hereby finds and declares that:

1. There exists within the urban areas of this State a large number of deteriorated, substandard and unsanitary residential properties because of the inability of their owners, for whatever reason, to pay for their repair and maintenance;

2. These properties are a threat not only to the health, safety and well-being of the persons who occupy them but also to neighboring persons and property;

3. There is also a shortage of decent ~~[, safe]~~ and ***safe*** affordable housing ~~[for persons of low or moderate income]~~ ~~*[and attainable housing]*~~ and the

counties and cities of this State have an obligation to encourage persons who own residential property to maintain that property in a decent, safe and sanitary condition;

4. It is in the public interest to encourage the preservation and maintenance of ***affordable*** ~~*[housing and attainable]*~~ housing in this State , ~~[for persons of low or moderate income,]~~ in order to improve ~~[their]~~ living conditions and, in doing so, to benefit the health, safety and welfare of the people of this State; and

5. The provisions of this chapter are in addition to, and do not abrogate or limit the application of, any other provisions of law granting to a county or city the authority to:

(a) Develop affordable housing ; ~~*[and attainable housing;]*~~ and

(b) Rehabilitate residential neighborhoods and individual properties within those neighborhoods.

Sec. 39. NRS 279A.020 is hereby amended to read as follows:

279A.020 As used in this chapter, unless the context otherwise requires:

1. ***"Affordable housing" has the meaning ascribed to it in section 2 of this act.***

2. "Agency" means an agency of a county or city established or designated to administer a program.

~~[2.]~~ *3.* ~~*["Attainable housing" has the meaning ascribed to it in section 18 of this act.*~~

~~*4.]*~~ "Fund" means a revolving fund for loans for the rehabilitation of residential property.

~~[3.]~~ ~~*[5.]*~~ ***4.*** "Governing body" means the governing body of a county or city.

~~[4.]~~ ~~*[6.]*~~ ***5.*** "Program" means a program for the rehabilitation of residential neighborhoods established by a governing body pursuant to this chapter.

~~[5.]~~ ~~*[7.]*~~ ***6.*** "Rehabilitation" includes structural improvements, landscaping and any other measure to improve the appearance of property or maintain property in a decent, safe and sanitary condition.

Sec. 40. NRS 279A.040 is hereby amended to read as follows:

279A.040 1. An applicant for a loan for the rehabilitation of residential property must, at the time application is made:

(a) Be a natural person who:

(1) Is a resident of or an owner of residential property in the city or an unincorporated area of the county, as the case may be;

(2) Is a member of a household ~~[having a gross income of less than 80 percent of the median gross income for households of the same size residing in the same county or city, as applicable, as that percentage is defined by the United States Department of Housing and Urban Development, or rents residential property to such households;]~~ ***eligible for affordable housing ; ~~*[or attainable housing;]*~~***

(3) Owns and resides on or rents for residential purposes only the property for which the loan is sought;

(4) Has the financial resources to repay the loan in accordance with the terms of the agreement;

(5) Has the ability to complete the rehabilitation within a reasonable time and maintain the property in a decent, safe and sanitary condition; and

(6) Meets such other requirements as are imposed by the governing body; or

(b) Be an organization that:

(1) Is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3) or 501(c)(4);

(2) Provides affordable housing ~~*[or attainable housing]*~~ to natural persons who meet the criteria set forth in subparagraphs (1) and (2) of paragraph (a); and

(3) Has the financial resources to repay the loan in accordance with the terms of the agreement.

2. Any residential property for which a loan for rehabilitation is sought must be:

(a) Entirely situated within the boundaries of the city or within an unincorporated area of the county, as the case may be;

(b) Capable of rehabilitation within reasonable limits; and

(c) Subject to not more than two encumbrances.

Sec. 41. NRS 279B.010 is hereby amended to read as follows:

279B.010 The Legislature hereby finds and declares that:

1. There exists within the urban areas of this State a large number of deteriorated, substandard and unsanitary residential properties which have been abandoned by their owners;

2. These properties are a threat to the health, safety and well-being of the persons occupying neighboring properties;

3. There is also a shortage of decent ~~[, safe]~~ and ***safe*** affordable housing ~~[for persons of low or moderate income]~~ ~~*[and attainable housing]*~~ and the counties and cities of this State have an obligation to provide ~~[such persons]~~ ***their residents*** with an opportunity to obtain residential property;

4. It is in the public interest to encourage the preservation and maintenance of ***affordable*** ~~*[housing and attainable]*~~ housing in this State , ~~[for persons of low or moderate income,]~~ in order to improve ~~[their]~~ living conditions and, in doing so, to benefit the health, safety and welfare of the people of this State; and

5. The provisions of this chapter are in addition to, and do not abrogate or limit the application of, any other provisions of law granting to a county or city the authority to:

(a) Develop affordable housing ~~*[and attainable housing;]*~~ and

(b) Rehabilitate abandoned residential properties.

Sec. 42. NRS 279B.020 is hereby amended to read as follows:

279B.020 As used in this chapter, unless the context otherwise requires:

1. ”Abandoned residential property” means residential property which has been:

(a) Acquired by the governing body pursuant to the provisions of NRS 361.603 or subsection 3 of NRS 279B.100, or by a grant from the Federal Government, the state government or any political subdivision of the State;

(b) Declared to have been abandoned by the Federal Government, the state government or the governing body; and

(c) Determined by the governing body to be in need of rehabilitation because of its deteriorated, substandard or unsanitary condition.

2***. ”Affordable housing” has the meaning ascribed to it in section 2 of this act.***

3. ”Agency” means an agency of a county or city established or designated to administer a program.

4. ~~[“Attainable housing” has the meaning ascribed to it in section 18 of this act.]~~

~~[3.]~~ ***~~[5.]~~*** ”Governing body” means the governing body of a county or city.

~~[4.]~~ ***~~[6.]~~ 5.*** ”Program” means a program for the rehabilitation of abandoned residential properties established by a governing body pursuant to this chapter.

~~[5.]~~ ***~~[7.]~~ 6.*** ”Rehabilitation” includes structural improvements, landscaping and any other measure to improve the appearance of property or maintain property in a decent, safe and sanitary condition.

Sec. 43. NRS 279B.040 is hereby amended to read as follows:

279B.040 1. An applicant for rehabilitation of abandoned residential property must, at the time application is made:

(a) Be a natural person who:

(1) Is a resident of the city or an unincorporated area of the county, as the case may be;

(2) Is a member of a household ~~[having a gross income of less than 80 percent of the median gross income for households of the same size residing in the same county or city, as applicable, as that percentage is defined by the United States Department of Housing and Urban Development;]~~ ***eligible for affordable housing ; ~~[or attainable housing;]~~***

(3) Intends to reside on the abandoned residential property for which the rehabilitation is sought;

(4) Has the financial resources to rehabilitate the abandoned residential property in accordance with the terms of the agreement;

(5) Has the ability to complete the rehabilitation within a reasonable time and maintain the property in a decent, safe and sanitary condition; and

(6) Meets such other requirements as are imposed by the governing body; or

(b) Be an organization that:

(1) Is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3) or 501(c)(4);

(2) Provides affordable housing ~~*[or attainable housing]*~~ to natural persons who meet the criteria set forth in subparagraphs (1) and (2) of paragraph (a); and

(3) Has the financial resources to rehabilitate the abandoned residential property in accordance with the terms of the agreement.

2. Any abandoned residential property for which an application for the rehabilitation is sought must be:

(a) Entirely situated within the boundaries of the city or within an unincorporated area of the county, as the case may be;

(b) Capable of rehabilitation within reasonable limits; and

(c) Subject to not more than two encumbrances.

Sec. 44. NRS 375.010 is hereby amended to read as follows:

375.010 1. The following terms, wherever used or referred to in this chapter, have the following meaning unless a different meaning clearly appears in the context:

(a) ***"Affordable housing" has the meaning ascribed to it in section 2 of this act.***

(b) ~~*["Attainable housing" has the meaning ascribed to it in section 18 of this act.*~~

~~*(c)]*~~ "Buyer" means a person or other legal entity acquiring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantee or other transferee of real property.

~~[(b)]~~ ~~*[(d)]*~~ ***(c)*** "Deed" means every instrument in writing, whatever its form and by whatever name it is known in law, by which title to any estate or present interest in real property, including a water right, permit, certificate or application, is conveyed or transferred to, and vested in, another person, except that the term does not include:

(1) A lease for any term of years;

(2) An easement;

(3) A deed of trust or common-law mortgage instrument that encumbers real property;

(4) A last will and testament;

(5) A distribution of the separate property of a decedent pursuant to chapter 134 of NRS;

(6) An affidavit of a surviving tenant;

(7) A conveyance of a right-of-way; or

(8) A conveyance of an interest in gas, oil or minerals.

~~[(c)]~~ ~~*[(e)]*~~ ***(d)*** "Escrow" means the delivery of a deed by the seller into the hands of a third person, including an attorney, title company, real estate broker or other person engaged in the business of administering escrows for compensation, to be held by the third person until the happening of a contingency or performance of a condition, and then to be delivered by the third person to the buyer.

~~[(d)]~~ ~~*[(f)]*~~ ***(e)*** "Seller" means a person or other legal entity transferring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantor or other transferor of real property.

~~[(e)]~~ ~~*[(g)]*~~ ***(f)*** "Value" means:

(1) In the case of any deed which is not a gift, the amount of the full purchase price paid or to be paid for the real property.

(2) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated fair market value of the property.

2. As used in paragraph ~~[(e)]~~ ~~*[(g)]*~~ ***(f)*** of subsection 1, "estimated fair market value" means the estimated price the real property would bring on the open market in a sale between a willing buyer and a willing seller. Such price may be derived from the assessor's taxable value or the prior purchase price, if the prior purchase was within the 5 years immediately preceding the date of valuation, whichever is higher.

Sec. 45. NRS 375.070 is hereby amended to read as follows:

375.070 1. The county recorder shall transmit the proceeds of the tax imposed by NRS 375.020 at the end of each quarter in the following manner:

(a) An amount equal to that portion of the proceeds which is equivalent to 10 cents for each $500 of value or fraction thereof must be transmitted to the State Controller who shall deposit that amount in the Account for Low-Income Housing created pursuant to NRS 319.500.

(b) In a county whose population is more than 400,000, an amount equal to that portion of the proceeds which is equivalent to 60 cents for each $500 of value or fraction thereof must be transmitted to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.

(c) The remaining proceeds must be transmitted to the State Controller for deposit in the Local Government Tax Distribution Account created by NRS 360.660 for credit to the respective accounts of Carson City and each county.

2. In addition to any other authorized use of the proceeds it receives pursuant to subsection 1, a county or city may use the proceeds to pay expenses related to or incurred for the development of affordable housing. ~~[for families whose income does not exceed 80 percent of the median income for families residing in the same county, as that percentage is defined by the United States Department of Housing and Urban Development.]~~ ~~*[and attainable housing.]*~~ A county or city that uses the proceeds in that manner must give priority to the development of affordable housing ~~*[and attainable housing]*~~ for persons who are disabled or elderly.

3. The expenses authorized by subsection 2 include, but are not limited to:

(a) The costs to acquire land and developmental rights;

(b) Related predevelopment expenses;

(c) The costs to develop the land, including the payment of related rebates;

(d) Contributions toward down payments made for the purchase of affordable housing ; ~~[and attainable housing;]~~ and

(e) The creation of related trust funds.

Sec. 45.3. NRS 651.050 is hereby amended to read as follows:

651.050 As used in NRS 651.050 to 651.110, inclusive, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Place of public accommodation" means:

(a) Any inn, hotel, motel or other establishment which provides lodging to transient guests, except an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as his residence;

(b) Any restaurant, bar, cafeteria, lunchroom, lunch counter, soda fountain, casino or any other facility where food or spirituous or malt liquors are sold, including any such facility located on the premises of any retail establishment;

(c) Any gasoline station;

(d) Any motion picture house, theater, concert hall, sports arena or other place of exhibition or entertainment;

(e) Any auditorium, convention center, lecture hall, stadium or other place of public gathering;

(f) Any bakery, grocery store, clothing store, hardware store, shopping center or other sales or rental establishment;

(g) Any laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, office of an accountant or lawyer, pharmacy, insurance office, office of a provider of health care, hospital or other service establishment;

(h) Any terminal, depot or other station used for specified public transportation;

(i) Any museum, library, gallery or other place of public display or collection;

(j) Any park, zoo, amusement park or other place of recreation;

(k) Any nursery, private school or university or other place of education;

(l) Any day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service establishment;

(m) Any gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation;

(n) Any other establishment or place to which the public is invited or which is intended for public use; and

(o) Any establishment physically containing or contained within any of the establishments described in paragraphs (a) to (n), inclusive, which holds itself out as serving patrons of the described establishment.

3. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 45.5. NRS 651.070 is hereby amended to read as follows:

651.070 All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation, without discrimination or segregation on the ground of race, color, religion, national origin ~~[or disability.]~~ ***, disability or sexual orientation.***

Sec. 45.7. NRS 651.110 is hereby amended to read as follows:

651.110 Any person who believes he has been denied full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation because of discrimination or segregation based on race, color, religion, national origin , ~~[or]~~ disability ***or sexual orientation*** may file a complaint to that effect with the Nevada Equal Rights Commission.

Sec. 46. The provisions of sections 9 to 13, inclusive, of this act expire by limitation when NRS 233J.010 expires by limitation. ~~[The provisions of section 14 of this act expire by limitation when NRS 233J.060 expires by limitation.]~~

Sec. 47. 1. This section and sections 9 to 14, inclusive, of this act become effective on June 30, 2007.

2. Sections 1 to 8, inclusive, and 15 to 46, inclusive, of this act become effective on July 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 255.

Bill read third time.

Roll call on Assembly Bill No. 255:

YEAS—26.

NAYS—Allen, Beers, Carpenter, Christensen, Cobb, Denis, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settelmeyer, Stewart, Weber—16.

Assembly Bill No. 255 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 8:38 p.m.

ASSEMBLY IN SESSION

At 9:26 p.m.
Madam Speaker presiding.
Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 625, Amendment No. 1108, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 266; Senate Bill No. 487.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 471, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 471.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1168.

SUMMARY— ~~[Revises provisions relating to sex offenders and offenders convicted of a crime against a child.]~~ **Makes various changes to provisions related to sex offenders, offenders convicted of a crime against a child and other criminal offenders.** (BDR 14-1426)

AN ACT relating to public safety; revising the provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; requiring incarcerated sex offenders and offenders convicted of a crime against a child to register with a local law enforcement agency before being released from prison; requiring sex offenders and offenders convicted of a crime against a child who have not provided a biological specimen to provide a biological specimen at the time of registration with a local law enforcement agency; increasing the minimum sentence for certain sexual offenses committed against a child; revising the penalty for a violation of a condition imposed pursuant to the program of lifetime supervision; **revising provisions concerning the procedures for meetings to consider prisoners for parole;** making various other changes to provisions relating to certain offenders; providing penalties; making appropriations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth certain conditions to be imposed on sex offenders placed under a program of lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Under sections 2, 8 and 10 of this bill, if an offender is: (1) convicted of certain crimes against a child under the age of 14 years; (2) a Tier 3 offender; and (3) placed under a program of lifetime supervision or released on parole, probation or a suspended sentence, the offender must not establish a residence within 1,000 feet of certain locations frequented primarily by children and must be placed under a system of active electronic monitoring if the Chief Parole and Probation Officer deems such monitoring appropriate. Sections 2, 8 and 10 also require an offender placed under a system of active electronic monitoring to pay to the extent of his ability any costs associated with such monitoring and prohibit a person from removing or disabling an electronic monitoring device without authorization.

In addition, sections 2, 8 and 9 of this bill prohibit certain sex offenders from being within 500 feet of certain locations frequented primarily by children. Section 8 also requires a court that issues an arrest warrant for a violation of a condition imposed pursuant to the program of lifetime supervision to transmit notice of the issuance of the warrant to the Central Repository for Nevada Records of Criminal History within 3 business days.

Existing law requires a sex offender or an offender convicted of a crime against a child to register with a local law enforcement agency within 48 hours after arriving or establishing a residence in the jurisdiction of the local law enforcement agency. (NRS 179D.240, NRS 179D.460) Section 3 of this bill requires an incarcerated offender convicted of a crime against a child to register, before being released from prison, with the appropriate local law enforcement agency in whose jurisdiction the offender will be a resident offender upon release. Section 5 of this bill requires an incarcerated sex offender to register, before being released, with the appropriate law enforcement agency in whose jurisdiction the sex offender will be a resident sex offender upon release.

Existing law requires a court to order, at sentencing, that a biological specimen be obtained from a person convicted of certain crimes. (NRS 176.0913) Section 4 of this bill requires an offender convicted of a crime against a child to provide a biological specimen at the time the offender registers with a local law enforcement agency if the offender has not already provided a biological specimen. Section 6 of this bill requires a sex offender to provide a biological specimen at the time the sex offender registers with a local law enforcement agency if the sex offender has not already provided a biological specimen.

Existing law establishes the imposition of minimum sentences for certain sexual offenses committed against a child. (NRS 200.366) Section 7 of this bill increases the minimum number of years that must be served before a person is eligible for parole for committing a sexual assault against a child

under the age of 16 years that does not result in substantial bodily harm to the child from 20 to 25 years. Section 7 also increases the minimum number of years that must be served before a person is eligible for parole for committing a sexual assault against a child under the age of 14 years that does not result in substantial bodily harm to the child from 20 to 35 years.

Section 10.5 of this bill clarifies the procedure concerning meetings to consider prisoners for parole by specifying that such meetings are quasi-judicial and limited to the rights set forth in statute. In addition, section 10.5 requires the State Board of Parole Commissioners to provide reasonable notice of a meeting and an opportunity to be present at the meeting to a prisoner who will be considered for parole. Parole may not be denied at a meeting unless the Board has complied with those requirements. Section 10.5 further provides that a prisoner or his representative must be allowed to speak during a meeting to consider the prisoner for parole and requires the Board to provide written notice of its decision and any recommendations it may have to the prisoner not later than 10 working days after the meeting. (NRS 213.130)

Sections 11 and 12 of this bill reconcile the provisions of Assembly Bill No. 579 of this session with the provisions of this bill.

Sections 13 and 14 of this bill make appropriations to the State Motor Pool and the Division of Parole and Probation of the Department of Public Safety.

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

Section 1. NRS 176.0926 is hereby amended to read as follows:

176.0926 1. If a defendant is convicted of a crime against a child, the court shall, following the imposition of a sentence:

(a) Notify the Central Repository of the conviction of the defendant, so the Central Repository may carry out the provisions for registration of the defendant pursuant to NRS 179D.230.

(b) Inform the defendant of the requirements for registration, including, but not limited to:

(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 required to register pursuant to NRS 179D.240;

(2) The duty to register in any other jurisdiction , ***including, without limitation, any jurisdiction outside the United States,*** during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(3) If he moves from this State to another jurisdiction, ***including, without limitation, any jurisdiction outside the United States,*** the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(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, ***including, without limitation, any jurisdiction outside the United States,*** or changes the primary address at which he is a student or worker; and

(5) The duty to notify immediately the appropriate local law enforcement agency if the defendant is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the defendant is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

(c) Require the defendant to read and sign a form confirming that the requirements for registration have been explained to him.

2. The failure to provide the defendant with the information or confirmation form required by paragraphs (b) and (c) of subsection 1 does not affect the duty of the defendant to register and to comply with all other provisions for registration pursuant to NRS 179D.200 to 179D.290, inclusive.

Sec. 2. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection ~~[3,]~~ ***6,*** if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime . ~~[;]~~

(b) Reside at a location only if ~~[it]~~ *:*

(1) The residence has been approved by the parole and probation officer assigned to the defendant . ~~[and keep]~~

(2) The defendant keeps the parole and probation officer ***assigned to the defendant*** informed of his current address . ~~[;]~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . ~~[;]~~

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant . ~~[;]~~

(e) Participate in and complete a program of professional counseling approved by the Division . ~~[;]~~

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance . ~~[;]~~

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant . ~~[;]~~

(h) Abstain from consuming, possessing or having under his control any alcohol . ~~[;]~~

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection ~~[2;]~~ *5*.

(j) Not use aliases or fictitious names . ~~[;]~~

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant . ~~[;]~~

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact . ~~[;]~~

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not ~~[be in or near:~~

~~(1) A]~~ ***knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a*** playground, ***a*** park, ~~[school or school grounds;~~

~~(2) A]~~ ***an athletic field or a facility for youth sports, or a*** motion picture theater . ~~[; or~~

~~(3) A business that primarily has children as customers or conducts events that primarily children attend;]~~ ***The provisions of this paragraph apply only to a defendant who is a Tier 3 offender.***

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . ~~[;]~~

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant . ~~[;]~~

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant . ~~[;]~~

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless

possession of such a device or such access is approved by the parole and probation officer assigned to the defendant . ~~[; and]~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. ***Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the defendant is a Tier 3 offender and the court grants probation or suspends the sentence of the defendant, the court shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:***

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The defendant;

(c) The parole and probation officer assigned to the defendant;

(d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

~~[3.]~~ *6.* The court is not required to impose a condition of probation or suspension of sentence listed in ~~[subsection]~~ ***subsections*** 1 ***and 2*** if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

~~[4.]~~ *7.* As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

Sec. 3. NRS 179D.230 is hereby amended to read as follows:

179D.230 1. If the Central Repository receives notice from a court pursuant to NRS 176.0926 that an offender has been convicted of a crime against a child, the Central Repository shall:

(a) If a record of registration has not previously been established for the offender, notify the local law enforcement agency so that a record of registration may be established; or

(b) If a record of registration has previously been established for the offender, update the record of registration for the offender and notify the appropriate local law enforcement agencies.

2. If the offender named in the notice is granted probation or otherwise will not be incarcerated or confined, the Central Repository shall immediately provide notification concerning the offender to the appropriate local law enforcement agencies and, if the offender resides in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

3. If an offender is incarcerated or confined and has previously been convicted of a crime against a child, before the offender is released:

(a) The Department of Corrections or a local law enforcement agency in whose facility the offender is incarcerated or confined shall:

(1) Inform the offender of the requirements for registration, including, but not limited to:

(I) 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 required to register pursuant to NRS 179D.240;

(II) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(III) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(IV) The duty to notify the local law enforcement agency for the jurisdiction in which he now resides, in person, and the jurisdiction in which he most recently 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

(V) The duty to notify immediately the appropriate local law enforcement agency if the offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education; and

(2) Require the offender to read and sign a form confirming that the requirements for registration have been explained to him and to forward the form to the Central Repository.

(b) The Central Repository shall:

(1) Update the record of registration for the offender; and

(2) Provide notification concerning the offender to the appropriate local law enforcement agencies and, if the offender will reside upon release in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

4. ***If an offender convicted of a crime against a child is incarcerated or confined, before the offender is released, the offender shall register, pursuant to 179D.240, with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction the offender will be a resident offender.***

5. The failure to provide an offender with the information or confirmation form required by paragraph (a) of subsection 3 does not affect the duty of the offender to register and to comply with all other provisions for registration.

~~[5.]~~ *6.* If the Central Repository receives notice from another jurisdiction or the Federal Bureau of Investigation that an offender convicted of a crime against a child is now residing or is a student or worker within this State, the Central Repository shall:

(a) Immediately provide notification concerning the offender to the appropriate local law enforcement agencies; and

(b) Establish a record of registration for the offender with the assistance of the local law enforcement agency.

Sec. 4. NRS 179D.240 is hereby amended to read as follows:

179D.240 1. In addition to any other registration that is required pursuant to NRS 179D.230, each offender who, after July 1, 1956, is or has been convicted of a crime against a child shall register with a local law enforcement agency pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the offender resides or is present for 48 hours or more within:

(a) A county; or

(b) An incorporated city that does not have a city police department,

➥ the offender shall be deemed a resident offender and shall register with the sheriff's office of the county or, if the county or the city is within the jurisdiction of a metropolitan police department, the metropolitan police department, not later than 48 hours after arriving or establishing a residence within the county or the city.

3. If the offender resides or is present for 48 hours or more within an incorporated city that has a city police department, the offender shall be deemed a resident offender and shall register with the city police department not later than 48 hours after arriving or establishing a residence within the city.

4. If the offender is a nonresident offender who is a student or worker within this State, the offender shall register with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction he is a student or worker not later than 48 hours after becoming a student or worker within this State.

5. A resident or nonresident offender shall immediately notify the appropriate local law enforcement agency if:

(a) The offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

➥ The offender shall provide the name, address and type of each such institution of higher education.

6. To register with a local law enforcement agency pursuant to this section, the offender shall:

(a) ~~[Appear]~~ ***Unless the offender is incarcerated or confined and required to register pursuant to subsection 4 of NRS 179D.230, appear*** personally at the office of the appropriate local law enforcement agency;

(b) Provide all information that is requested by the local law enforcement agency, including, but not limited to, fingerprints and a photograph; ~~[and]~~

(c) ***If the offender has not provided a biological specimen pursuant to NRS 176.0913 or 176.0916, provide a biological specimen to the local law enforcement agency; and***

(d) Sign and date the record of registration or some other proof of registration in the presence of an officer of the local law enforcement agency ~~[.]~~ ***or in the presence of an officer of the institution or facility in which the offender is incarcerated or confined.***

7. ***If an offender convicted of a crime against a child must provide a biological specimen pursuant to paragraph (c) of subsection 6, the local law enforcement agency shall arrange for the biological specimen to be obtained from the offender. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender resides or is present to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.***

8. When an offender registers, the local law enforcement agency shall:

(a) Inform the offender of the duty to notify the local law enforcement agency if the offender changes the address at which he resides or changes the primary address at which he is a student or worker; and

(b) Inform the offender of the duty to register with the local law enforcement agency in whose jurisdiction the offender relocates.

~~[8.]~~ ***9.*** After the offender registers with the local law enforcement agency, the local law enforcement agency shall forward to the Central Repository the information collected, including the fingerprints and a photograph of the offender.

~~[9.]~~ ***10.*** If the Central Repository has not previously established a record of registration for an offender described in subsection ~~[8,]~~ ***9,*** the Central Repository shall:

(a) Establish a record of registration for the offender; and

(b) Provide notification concerning the offender to the appropriate local law enforcement agencies.

~~[10.]~~ ***11.*** When an offender notifies a local law enforcement agency that:

(a) The offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education,

➥ and provides the name, address and type of each such institution of higher education, the local law enforcement agency shall immediately provide that information to the Central Repository and to the appropriate campus police department.

Sec. 5. NRS 179D.450 is hereby amended to read as follows:

179D.450 1. If the Central Repository receives notice from a court pursuant to NRS 176.0927 that a sex offender has been convicted of a sexual offense or pursuant to NRS 62F.250 that a juvenile sex offender has been deemed to be an adult sex offender, the Central Repository shall:

(a) If a record of registration has not previously been established for the sex offender, notify the local law enforcement agency so that a record of registration may be established; or

(b) If a record of registration has previously been established for the sex offender, update the record of registration for the sex offender and notify the appropriate local law enforcement agencies.

2. If the sex offender named in the notice is granted probation or otherwise will not be incarcerated or confined or if the sex offender named in the notice has been deemed to be an adult sex offender pursuant to NRS 62F.250 and is not otherwise incarcerated or confined:

(a) The Central Repository shall immediately provide notification concerning the sex offender to the appropriate local law enforcement agencies and, if the sex offender resides in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction; and

(b) If the sex offender is subject to community notification, the Central Repository shall arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

3. If a sex offender is incarcerated or confined and has previously been convicted of a sexual offense as described in NRS 179D.410, before the sex offender is released:

(a) The Department of Corrections or a local law enforcement agency in whose facility the sex offender is incarcerated or confined shall:

(1) Inform the sex offender of the requirements for registration, including, but not limited to:

(I) 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 required to register pursuant to NRS 179D.460;

(II) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(III) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(IV) The duty to notify the local law enforcement agency for the jurisdiction in which he now resides, in person, and the jurisdiction in which 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

(V) The duty to notify immediately the appropriate local law enforcement agency if the sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of

commencement or termination of his enrollment at an institution of higher education or if the sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education; and

(2) Require the sex offender to read and sign a form confirming that the requirements for registration have been explained to him and to forward the form to the Central Repository.

(b) The Central Repository shall:

(1) Update the record of registration for the sex offender;

(2) If the sex offender is subject to community notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive; and

(3) Provide notification concerning the sex offender to the appropriate local law enforcement agencies and, if the sex offender will reside upon release in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

4. ***If a sex offender is incarcerated or confined, before the sex offender is released, the sex offender shall register, pursuant to NRS 179D.460, with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction the sex offender will be a resident sex offender.***

5. The failure to provide a sex offender with the information or confirmation form required by paragraph (a) of subsection 3 does not affect the duty of the sex offender to register and to comply with all other provisions for registration.

~~[5.]~~ ***6.*** If the Central Repository receives notice from another jurisdiction or the Federal Bureau of Investigation that a sex offender is now residing or is a student or worker within this State, the Central Repository shall:

(a) Immediately provide notification concerning the sex offender to the appropriate local law enforcement agencies;

(b) Establish a record of registration for the sex offender; and

(c) If the sex offender is subject to community notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

Sec. 6. NRS 179D.460 is hereby amended to read as follows:

179D.460 1. In addition to any other registration that is required pursuant to NRS 179D.450, each sex offender who, after July 1, 1956, is or has been convicted of a sexual offense shall register with a local law enforcement agency pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the sex offender resides or is present for 48 hours or more within:

(a) A county; or

(b) An incorporated city that does not have a city police department,

➥ the sex offender shall be deemed a resident sex offender and shall register with the sheriff's office of the county or, if the county or the city is within the jurisdiction of a metropolitan police department, the metropolitan police department, not later than 48 hours after arriving or establishing a residence within the county or the city.

3. If the sex offender resides or is present for 48 hours or more within an incorporated city that has a city police department, the sex offender shall be deemed a resident sex offender and shall register with the city police department not later than 48 hours after arriving or establishing a residence within the city.

4. If the sex offender is a nonresident sex offender who is a student or worker within this State, the sex offender shall register with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction he is a student or worker not later than 48 hours after becoming a student or worker within this State.

5. A resident or nonresident sex offender shall immediately notify the appropriate local law enforcement agency if:

(a) The sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

➥ The sex offender shall provide the name, address and type of each such institution of higher education.

6. To register with a local law enforcement agency pursuant to this section, the sex offender shall:

(a) ~~[Appear]~~ ***Unless the sex offender is incarcerated or confined and required to register pursuant to subsection 4 of NRS 179D.450, appear*** personally at the office of the appropriate local law enforcement agency;

(b) Provide all information that is requested by the local law enforcement agency, including, but not limited to, fingerprints and a photograph; ~~[and]~~

(c) ***If the sex offender has not provided a biological specimen pursuant to NRS 176.0913 or 176.0916, provide a biological specimen to the local law enforcement agency; and***

(d) Sign and date the record of registration or some other proof of registration of the local law enforcement agency in the presence of an officer of the local law enforcement agency ~~[.]~~ ***or in the presence of an officer of the institution or facility in which the sex offender is incarcerated or confined.***

7. If a sex offender must provide a biological specimen pursuant to paragraph (c) of subsection 6, the local law enforcement agency shall arrange for the biological specimen to be obtained from the sex offender. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the sex

offender resides or is present to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

8. When a sex offender registers, the local law enforcement agency shall:

(a) Inform the sex offender of the duty to notify the local law enforcement agency if the sex offender 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

(b) Inform the sex offender of the duty to register with the local law enforcement agency in whose jurisdiction the sex offender relocates.

~~[8.]~~ ***9.*** After the sex offender registers with the local law enforcement agency, the local law enforcement agency shall forward to the Central Repository the information collected, including the fingerprints and a photograph of the sex offender.

~~[9.]~~ ***10.*** If the Central Repository has not previously established a record of registration for a sex offender described in subsection ~~[8,]~~ ***9,*** the Central Repository shall:

(a) Establish a record of registration for the sex offender;

(b) Provide notification concerning the sex offender to the appropriate local law enforcement agencies; and

(c) If the sex offender is subject to community notification and has not otherwise been assigned a level of notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

~~[10.]~~ ***11.*** When a sex offender notifies a local law enforcement agency that:

(a) The sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education,

➥ and provides the name, address and type of each such institution of higher education, the local law enforcement agency shall immediately provide that information to the Central Repository and to the appropriate campus police department.

Sec. 7. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of ~~[20]~~ ***25*** years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of ~~[20]~~ ***35*** years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

➥ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:

(a) Incest pursuant to NRS 201.180;

(b) Lewdness with a child pursuant to NRS 201.230;

(c) Sado-masochistic abuse pursuant to NRS 201.262; or

(d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 8. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole.

The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. ***Except as otherwise provided in subsection 8, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 offender.***

4. Except as otherwise provided in subsection 8, if a sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier 3 offender and the sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

5. A ~~[person]~~ ***sex offender placed under the system of active electronic monitoring pursuant to subsection 3 shall:***

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

6. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

7. Except as otherwise provided in subsection 6, a sex offender who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of ~~[~~:

~~(a) If the violation constitutes a minor violation, a misdemeanor.~~

~~(b) If the violation constitutes a major violation,~~] a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

~~[4.]~~ ***8. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3 and 4 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.***

9. If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.

10. For the purposes of prosecution of a violation by a ~~[person]~~ ***sex offender*** of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

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

~~(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:~~

~~(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;~~

~~(2) The use of a deadly weapon, explosives or a firearm;~~

~~(3) The use or threatened use of force or violence against a person;~~

~~(4) Death or bodily injury of a person;~~

~~(5) An act of domestic violence;~~

~~(6) Harassment, stalking or threats of any kind; or~~

~~(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.~~

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

Sec. 9. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~[it]~~ *:*

(1) The residence has been approved by the parole and probation officer assigned to the parolee . ~~[and keep]~~

(2) The parolee keeps the parole and probation officer informed of his current address . ~~[;]~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . ~~[;]~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee . ~~[;]~~

(d) Participate in and complete a program of professional counseling approved by the Division . ~~[;]~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance . ~~[;]~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee . ~~[;]~~

(g) Abstain from consuming, possessing or having under his control any alcohol . ~~[;]~~

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2 . ~~[;]~~

(i) Not use aliases or fictitious names . ~~[;]~~

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee . ~~[;]~~

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact . ~~[;]~~

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not ~~[be in or near:~~

~~(1) A]~~ ***knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a*** playground, ***a*** park, ~~[school or school grounds;~~

~~(2) A]~~ ***an athletic field or a facility for youth sports, or a*** motion picture theater . ~~[; or~~

~~(3) A business that primarily has children as customers or conducts events that primarily children attend;]~~ ***The provisions of this paragraph apply only to a parolee who is a Tier 3 offender.***

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . ~~[;]~~

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee . ~~[;]~~

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee . ~~[;]~~

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee . ~~[; and]~~

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The parolee;

(c) The parole and probation officer assigned to the parolee;

(d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 10. NRS 213.1255 is hereby amended to read as follows:

213.1255 1. ***Except as otherwise provided in subsection 4, in addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years and who is a Tier 3 offender, the Board shall require that the parolee:***

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

2. A parolee placed under the system of active electronic monitoring pursuant to subsection 1 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

3. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a parolee pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

4. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

5. In addition to any conditions of parole required to be imposed pursuant to ***subsection 1 and*** NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in

subsection ~~[2]~~ *6* against a child under the age of 14 years, the Board shall, when appropriate:

(a) Require the parolee to participate in psychological counseling . ~~[;]~~

(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present . ~~[; and~~

~~(c) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.]~~

~~[2.]~~ ***6.*** The provisions of ~~[subsection]~~ ***subsections*** 1 ***and 5*** apply to a prisoner who was convicted of:

(a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;

(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;

(c) An offense punishable pursuant to subsection 2 of NRS 200.750;

(d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;

(e) Lewdness with a child pursuant to NRS 201.230;

(f) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony; or

(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive.

Sec. 10.5. **NRS 213.130 is hereby amended to read as follows:**

213.130 1. The Department of Corrections shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the State Board of Parole Commissioners of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.

2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner or were part of the report of the presentence investigation and are reasonably available, a representative sample of such photographs must be included with the information submitted to the Board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees for any action that is taken pursuant to this subsection or for failing to take any action pursuant to this

subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection, "photograph" includes any video, digital or other photographic image.

3. Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the Board. All meetings ***are quasi-judicial and must be open to the public. No rights other than those conferred pursuant to this section or pursuant to specific statute concerning meetings to consider prisoners for parole are available to any person with respect to such meetings.***

4. Not later than 5 days after the date on which the Board fixes the date of the meeting to consider a prisoner for parole, the Board shall notify the victim of the prisoner who is being considered for parole of the date of the meeting and of his rights pursuant to this subsection, if the victim has requested notification in writing and has provided his current address or if the victim's current address is otherwise known by the Board. The victim of a prisoner being considered for parole may submit documents to the Board and may testify at the meeting held to consider the prisoner for parole. A prisoner must not be considered for parole until the Board has notified any victim of his rights pursuant to this subsection and he is given the opportunity to exercise those rights. If a current address is not provided to or otherwise known by the Board, the Board must not be held responsible if such notification is not received by the victim.

5. The Board may deliberate in private after a public meeting held to consider a prisoner for parole.

6. The Board of State Prison Commissioners shall provide suitable and convenient rooms or space for use of the Board.

7. If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the Board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

8. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.

9. ***The Board must not deny parole to a prisoner unless the prisoner has been given reasonable notice of the meeting and the opportunity to be present at the meeting. If the Board fails to provide notice of the meeting to the prisoner or to provide the prisoner with an opportunity to be present and determines that it may deny parole, the Board may reschedule the meeting.***

10. During a meeting to consider a prisoner for parole, the Board shall allow the prisoner:

(a) At his own expense, to have a representative present with whom he may confer; and

(b) To speak on his own behalf or to have his representative speak on his behalf.

11. Upon making a final decision concerning the parole of the prisoner, the Board shall provide written notice to the prisoner of its decision not later than 10 working days after the meeting and, if parole is denied, specific recommendations of the Board to improve the possibility of granting parole the next time the prisoner is considered for parole, if any.

12. For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.

Sec. 11. Section 26 of Assembly Bill No. 579 of this session is hereby amended to read as follows:

Sec. ~~26~~. ***When an offender convicted of a crime against a child or a sex offender registers with a local law enforcement agency as required pursuant to NRS 179D.460 or 179D.480 or section 27 of this act, or updates his registration as required pursuant to section 28 of this act:***

1. The offender or sex offender shall provide the local law enforcement agency with the following:

(a) The name of the offender or sex offender and all aliases that he has used or under which he has been known;

(b) The social security number of the offender or sex offender;

(c) The address of any residence or location at which the offender or sex offender resides or will reside;

(d) The name and address of any place where the offender or sex offender is a worker or will be a worker;

(e) The name and address of any place where the offender or sex offender is a student or will be a student;

(f) The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender; and

(g) Any other information required by federal law.

2. If the offender or sex offender has not previously provided a biological specimen pursuant to NRS 176.0913 or 176.0916, the offender or sex offender shall provide a biological specimen to the local law enforcement agency. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender or sex offender resides, is present or is a worker or student to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. The local law enforcement agency shall ensure that the record of registration of the offender or sex offender includes, without limitation:

(a) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

(b) The text of the provision of law defining each offense for which the offender or sex offender is required to register;

(c) The criminal history of the offender or sex offender, including, without limitation:

(1) The dates of all arrests and convictions of the offender or sex offender;

(2) The status of parole, probation or supervised release of the offender or sex offender;

(3) The status of the registration of the offender or sex offender; and

(4) The existence of any outstanding arrest warrants for the offender or sex offender;

(d) A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender;

(e) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card; and

(f) Any other information required by federal law.

Sec. 12. Section 27 of Assembly Bill No. 579 of this session is hereby amended to read as follows:

Sec. 27. ***1. In addition to any other registration that is required pursuant to NRS 179D.010 to 179D.550, inclusive, and sections 16 to 30, inclusive, of this act, each offender or sex offender who, on or after October 1, 2007, is or has been convicted of a crime against a child or a sexual offense shall register initially with the appropriate local law enforcement agency of the jurisdiction in which the offender or sex offender was convicted pursuant to the provisions of this section.***

2. An offender or sex offender shall initially register with a local law enforcement agency as required pursuant to subsection 1:

(a) If the offender or sex offender is sentenced to a term of imprisonment for the crime, before being released from incarceration or confinement for the crime; and

(b) If the offender or sex offender is not sentenced to a term of imprisonment for the crime, not later than 3 business days after the date on which the offender or sex offender was sentenced for the crime.

Sec. 13. 1. There is hereby appropriated from the State General Fund to the State Motor Pool for the Fiscal Year 2007-2008 the sum of $30,112 for the purchase of two motor pool vehicles to be used by the staff employed by the Division of Parole and Probation of the Department of Public Safety for the purpose of carrying out the provisions of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2008, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008.

Sec. 14. 1. There is hereby appropriated from the State General Fund to the Division of Parole and Probation of the Department of Public Safety for the purpose of carrying out the provisions of this act the sums of:

For the Fiscal Year 2007-2008 $587,115

For the Fiscal Year 2008-2009 $245,567

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 15. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of sections 4, 6 and 11 of this act.

Sec. 16. The amendatory provisions of:

1. Section 2 of this act apply to a person who is granted probation or a suspension of sentence before, on or after October 1, 2007.

2. Section 8 of this act apply to a person who is placed under a program of lifetime supervision before, on or after October 1, 2007; and

3. Sections 9 and 10 of this act apply to a person who is released on parole before, on or after October 1, 2007.

Sec. 17. 1. This section ~~[and sections]~~ **becomes effective upon passage and approval. Section 10.5 of this act becomes effective upon passage and approval for the purpose of adopting rules and regulations and establishing any forms necessary to carry out the provisions of that section and on October 1, 2007, for all other purposes.**

2. Sections 13 and 14 of this act become effective on July 1, 2007.

~~[2.]~~ **3.** Sections 1 to 10, inclusive, 15 and 16 of this act become effective on October 1, 2007.

~~[3.]~~ **4.** Sections 11 and 12 of this act become effective on October 1, 2007, only if Assembly Bill No. 579 of this session becomes effective.

~~[4.]~~ **5.** Sections 5 and 6 of this act expire by limitation on June 30, 2008.

Assemblyman Parks moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 471.

Bill read third time.

Remarks by Assemblyman Parks.

Roll call on Senate Bill No. 471:

YEAS—42.

NAYS—None.

Senate Bill No. 471 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 487, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 893 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 34, which is attached to and hereby made a part of this report.

MARILYN KIRKPATRICK	MARK AMODEI
DAVID BOBZIEN	MAURICE WASHINGTON
HEIDI GANSERT	BERNICE MATHEWS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA34.

SUMMARY—Revises provisions relating to water resources in certain counties. (BDR ~~[S-183)]~~ **48-183)**

AN ACT relating to water; ~~[creating an Advisory Subcommittee of the]~~ **providing for the regional management and conservation of water resources in certain portions of** Washoe County **; creating the Western** Regional Water ~~[Planning]~~ Commission; ~~[requiring]~~ **setting forth the powers and duties of** the **Western Regional Water** Commission ~~[, in conjunction with the Subcommittee, to assess and examine certain matters pertaining to the availability and responsible use of water within Washoe County and to submit a report to the Legislature in connection therewith;]~~ **; creating the Northern Nevada Water Planning Commission to advise and assist the Western Regional Water Commission; repealing certain provisions relating to regional planning and management of water in certain counties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing general law provides for regional planning and management of water by a water planning commission in counties whose population is 100,000 or more but less than 400,000 (currently Washoe County). Under that general law, a board of county commissioners is required to adopt a comprehensive plan for the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods and is required to take action by a two-thirds majority. This general law also provides for a water planning commission, which reports to and advises the board of county commissioners concerning issues relating to water resources. (NRS 540A.010-540A.310)

~~[Section 2 of this bill creates an Advisory Subcommittee of the Washoe County Regional Water Planning Commission. The Subcommittee consists of six members, including two Legislators appointed, respectively, by the Majority Leader of the Senate and the Speaker of the Assembly and four members of the general public who are appointed by the four purveyors of water in Washoe County: (1) the South Truckee Meadows General Improvement District; (2) the Sun Valley General Improvement District; (3) the Truckee Meadows Water Authority; and (4) Washoe County.~~

~~Section 3 of this bill requires the Commission, in conjunction with the Subcommittee, to make assessments, determinations and recommendations regarding several issues pertaining to the availability and responsible use of water within Washoe County.~~

~~Section 4 of this bill requires the Commission, in conjunction with the Subcommittee, to report on the activities carried out pursuant to section 3 and submit that report, accompanied by any recommendations for legislation, to the 75th Session of the Nevada Legislature.]~~ **This bill repeals various provisions of that general law and creates by special legislation a new structure for regional planning of water resources in certain portions of Washoe County based on the unique conditions and circumstances existing in those areas. Under the Nevada Constitution, the Legislature may pass a special or local law if the subject matter of the law does not fall within one of certain enumerated categories and a general law cannot be made applicable because of special circumstances and conditions. (Nev. Const. Art. 4, §§ 20, 21) Section 4 of this bill specifies the unique conditions and circumstances in these portions of Washoe County that justify special legislation for the purpose of regional planning and management of water resources.**

Sections 23 and 25-28 of this bill create the Western Regional Water Commission (Regional Water Commission), which is governed by a Board of Trustees consisting of representatives of various public entities and interests. Sections 36-41 of this bill create the Northern Nevada Water Planning Commission (Water Planning Commission), which reports to and advises the Board of Trustees of the Regional Water Commission.

Section 24 of this bill authorizes the City of Reno, City of Sparks, Washoe County, Sun Valley General Improvement District, South Truckee Meadows General Improvement District and Truckee Meadows Water Authority to provide certain additional power and duties to the Regional Water Commission by cooperative agreement. The cooperative agreement must be entered into before April 1, 2008.

Sections 34-52 of this bill require the development and adoption of a comprehensive plan for the area over which the Regional Water Commission has jurisdiction, which must address the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods.

Sections 30-35 of this bill authorize the Board of Trustees to: (1) plan for the implementation of a mechanism for scheduling the delivery of water supplies held by certain water purveyors before April 1, 2008; (2) develop a plan for the establishment of service territories by which those purveyors may provide new water service provided on and after April 1, 2008, if each of the public purveyors agree to the plan; (3) impose a fee for the planning and administration of certain activities; and (4) plan for water conservation by various means.

Section 56 of this bill creates a temporary statutory legislative committee to oversee the programs and activities of the Regional Water Commission.

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

Delete existing sections 1 through 6 of this bill and replace with the following new sections 1 through 57:

Section 1. **NRS 533.550 is hereby amended to read as follows:**

533.550 1. Notwithstanding any other provision of law, a public body shall not sell or lease for a term of more than 5 years a water right owned by the public body unless the public body, after holding at least one public hearing at which public comment was solicited, has issued written findings that:

(a) The sale or lease of the water right is consistent with the prudent, long-term management of the water resources within the jurisdiction of the public body;

(b) The sale or lease of the water right will not deprive residents and businesses within the jurisdiction of the public body of reasonable access to water resources for growth and development;

(c) The sale or lease of the water right is a reasonable means of promoting development and use of the water right; and

(d) The means by which the water right is sold or leased reasonably ensures that the public body will receive the actual value of the water right or comparable economic benefits.

2. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions. The term does not include a water district organized pursuant to a special act of the Legislature or a water authority organized as a political subdivision created by a cooperative agreement ~~[.]~~ ***or created by a special act of the Legislature.***

Sec. 2. **NRS 540A.010 is hereby amended to read as follows:**

540A.010 As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of county commissioners.

2. "Commission" means the ~~[water planning commission]~~ ***Northern Nevada Water Planning Commission*** created by ~~[NRS 540A.080.]~~ ***section 36 of this Act.***

3. "Comprehensive plan" or "plan" means the plan developed ~~[pursuant to NRS 540A.130.]~~ ***by a regional water commission created by special act.***

4. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 3. **Sections 3 to 53, inclusive, of this Act may be cited as the Western Regional Water Commission Act.**

Sec. 4. **1. The Legislature hereby finds that:**

(a) The provisions of section 22 of this Act describe a hydrologically unique area which is distinguished by the presence of Lake Tahoe and the Truckee River, a water system which is governed by a unique combination of state and federal law, by federal decree and by the Truckee River Operating Agreement; and

(b) The unique hydrological conditions of the area described in section 22 of this Act and the complex legal framework governing the use of water within that area are special circumstances and conditions to which a general law cannot be made applicable and necessitate this special Act which provides for a special structure for the coordinated planning and management of water resources in that area.

2. It is hereby declared as a matter of legislative determination that:

(a) The organization of the Western Regional Water Commission having the purposes, powers, rights, privileges and immunities provided in this Act will serve a public use and will promote the general welfare by facilitating unified and cooperative efforts to secure and develop additional water supplies, maintain and cooperatively establish policies for managing existing water resources and water supplies, provide for integrated regional water resources and management of water supplies, provide for integration of efforts to manage storm water, provide for protection of watersheds and provide for regional conservation efforts, subject to and in accordance with the Truckee River Operating Agreement.

(b) The planning for the acquisition, development, management and conservation of regional water supplies and any associated facilities by the Regional Water Commission is for a public and governmental purpose and a matter of public necessity.

(c) The geographical boundaries of the Regional Water Commission are within the area described in section 22 of this Act.

(d) The Regional Water Commission shall, in carrying out the provisions of this Act:

(1) Make full use of any available resources for sustainability, economic viability and maintenance of environmental values;

(2) Communicate the decisions and policies of the Regional Water Commission in an effective manner;

(3) Provide for a centralized system of decision making;

(4) Facilitate the effective coordination of land use and resource planning;

(5) Facilitate the effective and efficient planning, management and operation of facilities; and

(6) Plan for the effective stewardship of water resources, including, without limitation, ensuring the quantity and quality of surface water and groundwater and the control point and nonpoint sources of pollution.

(e) For the accomplishment of the purposes stated in this subsection, the provisions of this Act shall be broadly construed.

Sec. 5. **As used in this Act, unless the context otherwise requires, the words and terms defined in sections 6 to 21, inclusive, of this Act have the meanings ascribed to them in those sections.**

Sec. 6. **"Board of Trustees" or "Board" means the Board of Trustees of the Regional Water Commission.**

Sec. 7. **"City of Reno" means the municipal corporation in Washoe County, created and existing pursuant to the provisions of chapter 662, Statutes of Nevada 1971, as amended.**

Sec. 8. **"City of Sparks" means the municipal corporation in Washoe County, created and existing pursuant to the provisions of chapter 470, Statutes of Nevada 1975, as amended.**

Sec. 9. **"Comprehensive Plan" means the plan developed pursuant to sections 34 to 52, inclusive, of this Act.**

Sec. 10. **"Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.**

Sec. 11. **"Facilities" means any facility necessary for the beneficial use of water supplies, including, without limitation, any diversion, dam, reservoir, other water storage facility for the water supplies, water conveyance, well, pump, treatment facility, storage tank, pipe, turnout and any other facility required to provide water services or to provide for the conservation of water or enhanced control of floods.**

Sec. 12. **"Planning area" means the area described in section 22 of this Act.**

Sec. 13. **"Public purveyor" means:**

1. The Truckee Meadows Water Authority, or its successor;

2. The Washoe County Department of Water Resources, or its successor;

3. The South Truckee Meadows General Improvement District, or its successor;

4. The Sun Valley General Improvement District, or its successor; or

5. Any other governmental entity engaged in the retail delivery of potable water in the planning area.

Sec. 14. **"Regional Water Commission" means the Western Regional Water Commission created pursuant to section 23 of this Act.**

Sec. 15. **"Truckee Meadows Water Authority" means the political subdivision of the State of Nevada created by a cooperative agreement**

effective December 4, 2000, pursuant to the provisions of NRS 277.080 to 277.180, inclusive.

Sec. 16. **"Truckee River Operating Agreement" means all agreements relating to the implementation of Public Law 101-618, 104 Stat. 3324, as amended, including, without limitation, the Operating Agreement referenced in section 205(a) of Public Law 101-618, 104 Stat. 3324, as amended, whether entered into before, on or after April 1, 2008, to which the Truckee Meadows Water Authority, its predecessor or its successor, if any, is a party.**

Sec. 17. **"Washoe County" means the county created by and described in NRS 243.340.**

Sec. 18. **"Water Planning Commission" means the Northern Nevada Water Planning Commission created pursuant to section 36 of this Act.**

Sec. 19. **"Water Quality Settlement Agreement" means the Agreement entered into on October 10, 1996, by the City of Reno, the City of Sparks, Washoe County, the United States Department of the Interior, the United States Department of Justice, the United States Environmental Protection Agency, the Division and the Pyramid Lake Paiute Tribe, and any agreements entered into to implement that Agreement including, without limitation, any applicable provisions of the Truckee River Operating Agreement.**

Sec. 20. **"Water right" means any entitlement to the beneficial use of surface water or groundwater supplies, including, without limitation, an entitlement that exists by contract, by interest in real property, by decree or by rights granted or recognized by the State of Nevada, the State of California or any other governmental agency.**

Sec. 21. **"Water supplies" means surface water, groundwater, wastewater or effluent capable of being put to beneficial use.**

Sec. 22. **1. The planning area in which plans for the use, management and conservation of water are to be made, pursuant to this Act, is the entire area within the boundaries of Washoe County except:**

(a) Any land within the region defined by NRS 277.200, the Tahoe Regional Planning Compact;

(b) Land located within any Indian reservation or Indian colony which is held in trust by the United States;

(c) Land located within the Gerlach General Improvement District or its successor created pursuant to chapter 318 of NRS;

(d) Land located within the following administrative groundwater basins established by the United States Geological Survey and the Division of Water Resources of the State Department of Conservation and Natural Resources:

(1) Basin 22 (San Emidio Desert);

(2) Basin 23 (Granite Basin); and

(3) Basin 24 (Hualapai Flat); and

(e) Any land excluded by the Board pursuant to subsection 2 and not otherwise included pursuant to subsection 3.

2. The Board may exclude from the planning area any land which it determines is unsuitable for inclusion because of its remoteness from the water supplies which are the subject of the Comprehensive Plan or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the planning area.

3. The Board may include within the planning area any land otherwise excluded pursuant to subsection 2 if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or requires another benefit from planning or management performed in the planning area.

Sec. 23. **1. The Western Regional Water Commission is hereby created. The Regional Water Commission is a body corporate and politic and a municipal corporation.**

2. The property and revenues of the Regional Water Commission, any interest of any creditor therein and any possessory interest in or right to use that property which the Regional Water Commission may grant are exempt from all state, county and municipal taxation.

Sec. 24. **By entering into a cooperative agreement pursuant to NRS 277.080 to 277.180, inclusive, the City of Reno, City of Sparks, Washoe County, Sun Valley General Improvement District, South Truckee Meadows General Improvement District and Truckee Meadows Water Authority may jointly authorize the Regional Water Commission to exercise such powers, privileges or authority that each of those entities may individually exercise pursuant to the laws of this State which are not inconsistent with the provisions of this Act.**

Sec. 25. **1. The Regional Water Commission must be directed and governed by a Board of Trustees composed of the following nine members appointed pursuant to this section:**

(a) Two members of the City Council of the City of Reno;

(b) Two members of the City Council of the City of Sparks;

(c) Two members of the Board of County Commissioners of Washoe County;

(d) One member representing the Truckee Meadows Water Reclamation Facility or its successor;

(e) One member designated by the Board of Trustees of the South Truckee Meadows General Improvement District or its successor; and

(f) One member of the Board of Trustees of the Sun Valley General Improvement District or its successor.

2. The City Council of the City of Reno, the City Council of the City of Sparks and the Board of County Commissioners of Washoe County shall each appoint one trustee from their membership for an initial term of 2 years.

3. The Board of Directors of the Truckee Meadows Water Authority or its successor shall appoint from its membership, for initial terms of 3 years:

(a) One trustee who is a member of the City Council of the City of Reno;

(b) One trustee who is a member of the City Council of the City of Sparks; and

(c) One trustee who is a member of the Board of County Commissioners of Washoe County.

➥ The trustees appointed pursuant to this subsection must be different persons than those appointed pursuant to subsection 2.

4. The Board of Trustees of the Sun Valley General Improvement District or its successor and the Board of Trustees of the South Truckee Meadows General Improvement District or its successor shall each appoint one trustee from its membership for an initial term of 3 years.

5. The owners of the Truckee Meadows Water Reclamation Facility or its successor shall jointly appoint one trustee for an initial term of 2 years.

6. After the initial terms, each trustee who is appointed to the Board serves for a term of 2 years. A trustee may be reappointed.

7. All trustees must be elected officials. No trustee may serve beyond his term of office.

8. The position of a trustee must be considered vacated upon his loss of any of the qualifications required for his appointment, and in such event, the appointing authority shall appoint a successor to fill the remainder of the unexpired term.

Sec. 26. **Each member of the Board shall file with the County Clerk of Washoe County:**

1. His oath of office.

2. A corporate surety bond furnished at the Regional Water Commission's expense, in an amount not to exceed $5,000, and conditioned for the faithful performance of his duties as a member of the Board.

Sec. 27. **1. The Board shall elect one of its members as Chairman and one of its members as Vice Chairman, and shall elect a Secretary and a Treasurer, who may be members of the Board. The Secretary and the Treasurer may be the same person. The terms of the officers expire on December 31 of each year.**

2. The Secretary shall keep audio recordings or transcripts of all meetings of the Board and, in a well-bound book, a record of all the proceedings of the Board, minutes of all meetings, certificates, contracts, bonds given by employees and all other acts of the Board. Except as otherwise provided in NRS 241.035, the minute book, audio recordings, transcripts and records must be open to the inspection of all interested persons, at all reasonable times and places.

3. The Treasurer shall keep, in permanent records, strict and accurate accounts of all money received by and disbursed for and on behalf of the Board and the Regional Water Commission.

Sec. 28. **1. The Board shall meet regularly at a time and in a place to be designated by the Board. The Board shall provide for the calling of a special meeting when action is required before a regular meeting would occur.**

2. Except as otherwise provided in this subsection, a majority of the members of the Board constitutes a quorum at any meeting. Each motion and resolution of the Board must be adopted by at least a majority of the members present at the meeting.

Sec. 29. **The Regional Water Commission is a public employer within the meaning of NRS 286.070, and the provisions of chapter 286 of NRS apply to the Regional Water Commission and its employees.**

Sec. 30. **The Regional Water Commission may do all things necessary to accomplish the purposes of this Act. The Regional Water Commission has perpetual succession and, except as otherwise provided in sections 33 of this Act, has the following powers to:**

1. Sue and be sued.

2. Enter into agreements with Washoe County, the Cities of Reno and Sparks, and any public purveyor.

3. Prepare, adopt, update and oversee the implementation of the Comprehensive Plan pursuant to sections 34 to 52, inclusive, of this Act.

4. Plan for the implementation of a mechanism for:

(a) Scheduling the delivery of water supplies held by public purveyors to maximize the yield of regional water supplies and facilitate the cooperative administration of regional water conveyance and treatment facilities for the benefit of the public purveyors.

(b) Maximizing conjunctive use by the public purveyors. As used in this paragraph, "conjunctive use" means the combined use of surface water and groundwater systems to optimize resource use.

5. Prepare, adopt and update a water conservation plan for the use of municipal, industrial and domestic water supplies within the planning area, and make recommendations for water conservation agreements among water purveyors and local governmental entities.

6. Study and recommend to the Board of County Commissioners of Washoe County, the City Council of the City of Reno and the City Council of the City of Sparks ordinances for the implementation of a water conservation plan adopted pursuant to subsection 5 and the Comprehensive Plan.

7. Contract with public purveyors or any other public entity for the provision of services to or by the Regional Water Commission and, in the performance of its functions, use the officers, agents, employees, services, facilities, records and equipment of any public purveyor, Washoe County, the City of Reno or the City of Sparks, with the consent

of the respective public purveyor or governmental entity, and subject to such terms and conditions as may be agreed upon.

8. Employ or contract with such persons as it deems necessary and hire and retain officers, agents and employees, including fiscal advisers, engineers, attorneys or other professional or specialized personnel.

9. Seek, apply for and otherwise solicit and receive from any source, public or private, such contributions, gifts, grants, devises and bequests of money and personal property, or any combination thereof, as the Regional Water Commission determines is necessary or convenient for the exercise of any of its powers.

10. Participate with relevant agencies of the United States, the State of Nevada and other entities on issues concerning the supply of water.

11. Adopt such rules and regulations for the conduct of the affairs of the Regional Water Commission or of the Board as the Board may deem necessary or desirable.

12. Perform such other functions conferred on the Regional Water Commission by the provisions of this Act.

Sec. 31. **The Board may develop a plan for the establishment of service territories within the planning area in which the public purveyors and all systems for the supply of water which are controlled or operated by the public purveyors may, on and after April 1, 2008, provide new retail or wholesale water services to new customers. A plan developed pursuant to this section does not apply to any public purveyor unless each public purveyor agrees to the provisions of the plan. The provisions of this section do not affect the ability of public purveyors to continue to provide retail and wholesale water services to customers who received that type of service before April 1, 2008, or pursuant to agreements for water service existing before April 1, 2008. In developing the plan, the Board shall:**

1. Seek to ensure the coordination of the delivery of water at the lowest reasonable cost, considering all the facilities, improvement and operations required to provide that water as measured by the net present value of those facilities, improvements and operations existing at the time of the determination, generally using current dollars;

2. Seek to ensure that existing or future customers are not affected inequitably;

3. Seek to provide for the most effective management, development and integration of systems for the efficient use of water supplies and associated facilities; and

4. Consider:

(a) Any specific planning conducted by public purveyors before April 1, 2008, for existing or new customers;

(b) The topography of the service territories and the readiness and ability of public purveyors to serve customers with existing facilities;

(c) Any policies for land use that affect the service territories; and

(d) The rate of growth within the service territories projected over a reasonable period.

Sec. 32. **The Board has and may exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this Act. Such specific powers are not a limitation upon any power necessary or appropriate to carry out the purposes and intent of this Act.**

Sec. 33. **Notwithstanding the provisions of this Act, the Truckee Meadows Water Authority or its successor is and shall remain the entity with the sole and exclusive power and authority to negotiate and execute and to implement its obligations under that Agreement, as the successor in interest to Sierra Pacific Power Company. All water supplies provided or available to the Truckee Meadows Water Authority or its successor pursuant to the Truckee River Operating Agreement must be considered as acquired before April 1, 2008, and must be managed, scheduled and operated in accordance with that Agreement. Nothing in this Act alters the rights and obligations of the Water Quality Settlement Agreement, and all water supplies must be managed, scheduled and operated in accordance with the Water Quality Settlement Agreement.**

Sec. 34. **The Board may, upon the recommendation of the Water Planning Commission:**

1. Adopt and revise the Comprehensive Plan;

2. Make recommendations concerning methods for conserving existing water supplies which are consistent with any other plans required by law;

3. Make recommendations concerning methods of collecting and treating sewage to protect and conserve water supplies;

4. Provide information to members of the public regarding present and potential uses of water; and

5. Make recommendations concerning the management and use of water within the planning area to:

(a) The governing body and the Planning Commission of Washoe County and the Cities of Reno and Sparks;

(b) The Governing Board for Regional Planning and the Regional Planning Commission established in Washoe County pursuant to NRS 278.0264 and 278.0262, respectively;

(c) The State Engineer;

(d) The Federal Government; and

(e) Such other entities as the Board deems appropriate.

Sec. 35. **1. To fund the planning and administration required by this Act and the implementation of the Comprehensive Plan, the Board may impose a fee at a rate not to exceed 1.5 percent of the amount otherwise billed, to be collected by each public purveyor and supplier of water from customers within the planning area. If the Board determines**

to impose such a fee, the Board must impose the fee by resolution after holding a hearing.

2. A public purveyor or supplier of water must state separately on its billings to customers the amount charged as a result of any fee imposed pursuant to subsection 1.

Sec. 36. **1. The Northern Nevada Water Planning Commission is hereby created in the planning area. The Water Planning Commission must consist of the following voting members who are residents of Nevada:**

(a) The Director of Public Works for the City of Reno, or his designee;

(b) The Director of Public Works for the City of Sparks, or his designee;

(c) The Director of Water Resources for Washoe County, or his designee;

(d) A member of the South Truckee Meadows General Improvement District or its successor;

(e) The General Manager of the Sun Valley General Improvement District or its successor, or his designee;

(f) The General Manager of the Truckee Meadows Water Authority or its successor, or his designee;

(g) The General Manager of the Truckee Meadows Wastewater Reclamation Facility or its successor, or his designee;

(h) One member appointed by the governing body of the Indian reservation which is the largest in area in the planning area, if the planning area contains an Indian reservation, or, if there is not an Indian reservation located within the planning area or the governing body of the reservation does not appoint a member, one member appointed by the Board to represent the public at large;

(i) One member of the public at large appointed by the Board to represent environmental, biological, conservation or public concerns;

(j) One member appointed by the Board to represent owners of domestic wells;

(k) One member appointed by the Board of Supervisors of the Washoe Storey Conservation District or its successor; and

(l) Such additional members with expertise in any area that the Board determines is necessary, appointed by the Board.

➥ The terms of the ex officio members described in paragraphs (a) to (g), inclusive, are concurrent with the employment of those members in the respective positions specified in those paragraphs. The members appointed pursuant to paragraphs (h) to (l), inclusive, serve initial terms of 2 years.

2. After the initial terms, the term of office of each member appointed pursuant to paragraphs (h) to (l), inclusive, of subsection 1 is

3 years. A member may be reappointed. A vacancy must be filled for the unexpired term by the appointing entity.

Sec. 37. **In addition to the voting members, the Water Planning 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 of the Bureau of Consumer Protection in the Office of the Attorney General;

3. One member appointed by the Administrator of the Division;

4. One member appointed by the State Engineer;

5. One member appointed by the Chief of the 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 in the planning area;

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. 38. **The members of the Water Planning Commission appointed pursuant to paragraphs (h) to (l), inclusive, of subsection 1 of section 36 of this Act or any alternative designees appointed pursuant to paragraphs (a) to (g), inclusive, of subsection 1 of section 36 of this Act may not hold any elective governmental office but may be engaged or employed in private enterprise or be employees of state or local government, and each member must be qualified pursuant to at least one of the following subsections:**

1. A professional engineer licensed pursuant to the provisions of chapter 625 of NRS;

2. Experienced in comprehensive planning, natural resources or environmental protection;

3. A specialist in hydrologic science;

4. Experienced in law, management or planning related to water;

5. Experienced in municipal finance or resource economics;

6. Experienced in construction, planning or operation of facilities or systems for supplying or treating water, for collecting or treating sewage, for drainage of storm water or for control of floods; or

7. Knowledgeable in the areas of water conservation, biology, natural systems, water quality and water management.

Sec. 39. **The Water Planning Commission shall establish a schedule for the selection of its Chairman for a term of 1 year, in rotation, from among the members.**

Sec. 40. **1. The Water Planning Commission shall meet at the call of the Chairman or any three members. The Water Planning Commission shall establish a schedule of regular meetings and provide for the calling of a special meeting when action is required before a regular meeting would occur.**

2. A quorum consists of a majority of the members. The affirmative vote of a majority of the members present is required to take action, unless a larger proportion is required by this Act for a particular action.

3. A member of the Water Planning Commission is not entitled to compensation for his services as a member.

Sec. 41. **1. The Water Planning Commission shall develop, and as necessary recommend revisions to, a Comprehensive Plan for the planning area covering the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm waters and control of floods. The initial Comprehensive Plan must be developed on or before January 1, 2011. The provisions of the comprehensive plan developed and revised pursuant to the former provisions of NRS 540A.130 before April 1, 2008, remain in effect until the Board adopts the initial Comprehensive Plan.**

2. The Comprehensive Plan must consist of written text, appropriate maps and goals and policies to deal with current and future problems affecting the planning area as a whole with respect to the subjects of the Comprehensive Plan set forth in subsection 1. In developing the Comprehensive Plan, the Water Planning Commission shall consider any water resource plan developed by a public purveyor and, to the extent feasible and consistent with the objectives of the Regional Water Commission, seek to incorporate such a plan.

3. The Comprehensive Plan must:

(a) Describe the problems and needs of the planning area relating to the subjects of the Comprehensive Plan set forth in subsection 1;

(b) Identify the providers of services relating to the subjects of the Comprehensive Plan within the planning area and the area within which each provides service, including service territories of public utilities and public purveyors;

(c) Identify alternatives to reduce demand or increase water supply;

(d) Identify and provide for existing and future sources of water needed to meet the present or future needs of the planning area, including, without limitation, existing and future demand for water within each public purveyor's service territory;

(e) Define priorities and general location for additional major facilities needed to provide services relating to the subjects of the Comprehensive Plan set forth in subsection 1;

(f) Describe programs to mitigate drought, achieve conservation of water, protect wellheads and otherwise manage water;

(g) Provide for the development, acquisition and stabilization of surface water and groundwater supply in the planning area, including policies regarding dedication of privately held water resources by applicants for water service;

(h) Provide for the oversight of, protection of, regional management of and maximization of efficient conjunctive use of, the supply of surface water and groundwater and major water resource facilities in the planning area, including use of reclaimed water and recharge and recovery or underground storage and recovery of water, and the scheduling of the delivery of water supplies held by public purveyors;

(i) Identify and provide for the extent to which reuse or effluent water is to be put to beneficial use or discharged, directly or indirectly, into the Truckee River;

(j) Provide for the regional conservation and prevention of long-term depletion of surface water and groundwater resources in the planning area in support of the Comprehensive Plan;

(k) Provide for adequate supplies of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm waters and control of floods within the planning area;

(l) Identify and provide for the peaking capacity required for delivery of water supplies to each public purveyor, if applicable, and the means by which such requirements will be met;

(m) Include a water budget identifying water supplies available to each public purveyor from all sources; and

(n) Seek to make full use of any unused capacity of facilities that are owned by public purveyors, if such use is otherwise economical and efficient.

4. The Water Planning Commission shall make recommendations to the Board for the adoption of, and any revisions to, the Comprehensive Plan.

Sec. 42. **The Comprehensive Plan must include the following elements:**

1. Quality of surface water, which must include, without limitation:

(a) Compliance with standards of quality for bodies of water;

(b) Locations and capacities of plants to treat wastewater;

(c) Intended quantity and quality of discharge from those plants and its reuse, service areas and interceptors; and

(d) Programs to attain protection from pollution by both concentrated and diffuse sources.

2. Quality of groundwater, which must include, without limitation:

(a) Compliance with standards of quality for hydrographic basins and septic tanks;

(b) Capacities for withdrawal of water from hydrographic basins;

(c) Programs to protect wellheads;

(d) Programs to clean up contaminated groundwater from hydrographic basins; and

(e) Programs to attain protection from pollution by both concentrated and diffuse sources.

3. Supply of surface water, which must include, without limitation:

(a) Existing and planned sources of surface water;

(b) Existing and planned uses for all surface water, including municipal and industrial uses, requirements for return flow, reserves for drought and future growth, uses to improve the quality of water, uses to provide habitat and uses in conjunction with underground water;

(c) Major facilities to convey and store surface water;

(d) Standards, service areas, rates of flow and reserves for storage; and

(e) Facilities to treat surface water.

4. Supply of underground water, which must include, without limitation:

(a) Existing and planned sources of underground water;

(b) Existing and planned uses for all underground water, including municipal and industrial uses, maintenance of minimum groundwater level and the need for recharge, reserves for drought and future growth, uses to improve the quality of water, uses to provide habitat and uses in conjunction with surface water;

(c) Major facilities to extract and convey underground water;

(d) Compliance with standards for treated and nontreated water, service areas, rates of flow and reserves for storage; and

(e) Facilities to treat and store underground water.

5. Control of floods and drainage of storm water, as it relates to surface water, which must include, without limitation:

(a) Minimum standards of design for controlling floods in the planning area;

(b) Nonstructural alternatives and standards for facilities to control floods in the planning area and single drainage basins;

(c) Regional facilities to control floods; and

(d) Generalized facilities and standards of design for single drainage basins.

6. Control of floods and drainage of storm water, as it relates to underground water, which must include, without limitation:

(a) Groundwater level and capacity for additional storage of water underground as a means of mitigating floods;

(b) Location and capacities of major facilities for controlling floods which utilize storage of water underground to mitigate floods; and

(c) Standards of design for devices to infiltrate storm water and other minor facilities for controlling floods which utilize storage of water underground to mitigate floods.

7. Cost and financing, which must include an estimate of the cost of each major facility, source of water or other requirement of the Comprehensive Plan and an analysis of alternatives for financing and funding the facility, source or other requirement, or alternatives thereto, as well as the effect of the funding alternatives on other facilities included in the Comprehensive Plan. The estimate of cost must state the financial impact on persons within the planning area, including, without limitation, all direct and indirect costs of connecting to a system for supplying water, if applicable.

8. Recommendations for developing and implementing consistent policies of, and among, public purveyors concerning regional drought reserve standards, developer costs, impact fees, dedication of water rights and standards for the drainage of water.

9. Evaluation and recommendations regarding the consolidation of public purveyors in the planning area, which must include costs and benefits of consolidation, the feasibility of various consolidation options, analysis of water supplies, operations, facilities, human resources, assets, liabilities, bond covenants, and legal and financial impediments to consolidation and methods, if any, for addressing any such impediments.

Sec. 43. **1. The Comprehensive Plan must be consistent with and carry out the provisions of the Comprehensive Regional Plan adopted by the Governing Board for Regional Planning in Washoe County pursuant to NRS 278.0276 and the master plans and any other plans for the use of land which are adopted by governmental entities within the planning area.**

2. The Comprehensive Plan must be consistent with and carry out or support the carrying out of all aspects of the Truckee River Operating Agreement and Water Quality Settlement Agreement.

3. The Comprehensive Plan must be consistent with the state water plan that is in effect at the time that the Comprehensive Plan is adopted.

Sec. 44. **In developing the Comprehensive Plan, the Water Planning Commission shall:**

1. Receive and consider information from public purveyors, public utilities and other entities supplying municipal and industrial water within the planning area;

2. Receive and consider information from entities providing sanitary sewerage, treatment of sewage, drainage of storm water and control of floods within the planning area;

3. Receive and consider information from entities concerned with water quality within the planning area;

4. Review and consider any plan or recommendation of the State Engineer concerning the development, conservation and use of water resources, existing water conservation plans, the regional plan and any master plan that has been adopted pursuant to the provisions of chapter 278 of NRS and any similar plan of a local government which applies to

any area in the planning area, and may seek and consider the advice of each local planning commission and any other affected entity;

5. Coordinate and make consistent the elements of the Comprehensive Plan set forth in section 42 of this Act;

6. Consider existing applicable laws;

7. Recognize and coordinate the needs of the incorporated areas of the planning area with the needs of the unincorporated areas of the planning area; and

8. Receive and consider information from other interested persons.

Sec. 45. **1. Before submitting the Comprehensive Plan to the Board, the Water Planning Commission shall hold at least one public hearing on the Comprehensive Plan within the planning area.**

2. Before acting on a proposed amendment to the adopted Comprehensive Plan, the Water Planning Commission shall hold at least one public hearing on the proposed amendment at a location in the planning area relevant to the proposed amendment.

3. Notice of the time and place of each hearing must be given by publication in a newspaper of general circulation in the planning area at least 10 days before the day of the hearing. If there is more than one newspaper of general circulation in the planning area, notice must be given by publication in at least two such newspapers.

4. The decision to submit the proposed Comprehensive Plan or any amendment to the adopted Comprehensive Plan to the Board must be made by resolution of the Commission carried by the affirmative votes of a majority of the total voting members of the Water Planning Commission. The resolution must refer expressly to the text, maps and descriptive or other matter intended by the Water Planning Commission to constitute the Comprehensive Plan or an amendment thereto.

Sec. 46. **1. An attested copy of the proposed Comprehensive Plan or an amendment thereto must be submitted by the Water Planning Commission to the Board.**

2. Before taking any action on the proposed Comprehensive Plan or an amendment thereto, the Board shall convene a public hearing.

3. Notice of the hearing must be given at least 10 days before the date of the hearing. The notice must include, without limitation:

(a) A statement of the time, place and nature of the hearing;

(b) A statement of the legal authority under which the hearing is to be held; and

(c) A reference to the particular sections of any applicable laws.

4. Not less than 30 days before the hearing, the Board shall cause to be placed a copy of the proposed Comprehensive Plan or amendment thereto in the office of the County Clerk of Washoe County and publish notice that the Comprehensive Plan or amendment thereto is available for public inspection.

5. Each notice required by this section must be published in a newspaper of general circulation in the planning area. If there is more than one newspaper of general circulation in the planning area, notice must be given by publication in at least two such newspapers. The notice must be a display advertisement not less than 3 by 5 inches in size.

Sec. 47. **1. The Board shall not change or add to the proposed Comprehensive Plan or an amendment thereto as submitted by the Water Planning Commission until it has submitted the substance of the proposed change or addition to the Water Planning Commission in writing with its reasons for the change or addition.**

2. The Water Planning Commission shall, if it agrees to the change or addition, revise the submitted Comprehensive Plan or amendment thereto accordingly. If the Water Planning Commission does not agree, it shall report to the Board in writing its reason for disagreeing and any alternative proposal.

3. In either case, the Water Planning Commission shall present its revision or report to the Board within 40 days after the Board's change or amendment is submitted to the Water Planning Commission.

4. If the Water Planning Commission does not agree with the proposed change or addition and the Board refuses to rescind its proposal or to accept an alternative proposal of the Water Planning Commission, the Water Planning Commission shall revise the originally submitted Comprehensive Plan or amendment thereto to incorporate the change or addition proposed by the Board.

Sec. 48. **1. After adoption by the Board, the Comprehensive Plan or an amendment thereto must be submitted for review to the Regional Planning Commission in Washoe County established pursuant to NRS 278.0262. The Regional Planning Commission shall review the Comprehensive Plan or amendment thereto only for consistency with the Comprehensive Regional Plan adopted pursuant to NRS 278.0276 and the master plans and any other plans for the use of land which are adopted by local governmental entities within the planning area. The Regional Planning Commission shall review the Comprehensive Plan or amendment thereto at one or more public hearings. Notice of the time and place of a hearing must be given in accordance with NRS 278.0276.**

2. If the Regional Planning Commission fails to make a determination within 40 days after the submission of the Comprehensive Plan or amendment thereto, the Comprehensive Plan or amendment thereto shall be deemed to be consistent with the Comprehensive Regional Plan.

3. If the Regional Planning Commission determines that the Comprehensive Plan or amendment thereto is not consistent with the Comprehensive Regional Plan, it shall state its reasons why the Comprehensive Plan or amendment thereto is not consistent. Unless an appeal is filed pursuant to section 49 of this Act, the Water Planning

Commission and the Board shall respectively develop and adopt, in accordance with sections 44 to 47, inclusive, of this Act, proposed revisions to the Comprehensive Plan or amendment thereto, and the Board shall resubmit the revised Comprehensive Plan or amendment thereto to the Regional Planning Commission.

Sec. 49. **1. An affected entity that disagrees with the reasons given by the Regional Planning Commission for its determination of consistency or inconsistency pursuant to section 48 of this Act may file an appeal with the Governing Board for Regional Planning in Washoe County not later than 10 days after the determination of consistency or inconsistency. As used in this subsection, "affected entity" means Washoe County, the City of Reno, the City of Sparks or any other governmental entity or public purveyor or a public utility providing services relating to the subject matter of the Comprehensive Plan within the planning area.**

2. Within 45 days after its receipt of an appeal, the Governing Board for Regional Planning shall consider the appeal and issue its decision. If the decision of the Governing Board for Regional Planning is that the Comprehensive Plan or amendment thereto is not consistent with the Comprehensive Regional Plan, it shall state its reasons why the Comprehensive Plan or amendment thereto is not consistent. The Water Planning Commission and the Board shall then respectively develop and adopt, in accordance with sections 44 to 47, inclusive, of this Act, proposed revisions to the Comprehensive Plan or amendment thereto, and the Board shall resubmit the revised Comprehensive Plan or amendment thereto to the Regional Planning Commission for review.

Sec. 50. **The adopted Comprehensive Plan must be reviewed by the Water Planning Commission on a schedule to be established by the Board, which must at least provide for review of the Comprehensive Plan within 5 years after its adoption and at least every 5 years thereafter. After each review, the Water Planning Commission shall submit to the Board any proposed amendment to the Comprehensive Plan or report that there are no amendments.**

Sec. 51. **1. Except as otherwise provided in subsection 2, on and after the date the initial Comprehensive Plan is finally approved, no facility intended to provide a service relating to a subject of the Comprehensive Plan within the planning area may be constructed, if the facility is of such a kind or size as to affect the working of the Comprehensive Plan as distinct from providing normal service to customers, unless it is included in the Comprehensive Plan or has been reviewed and approved as provided in subsection 3.**

2. The Comprehensive Plan may allow for the construction of facilities not included within the Comprehensive Plan in order to meet an emergency as defined in the Comprehensive Plan.

3. A proposal to construct a facility described in subsection 1 within the planning area must be submitted to the Water Planning Commission for review and recommendation to the Board concerning the conformance of the proposal with the Comprehensive Plan. The review must include an evaluation of stranded costs, the need for the facility within the planning area and the impact that construction of the facility will have on any potential consolidation of public purveyors. If the Water Planning Commission fails to make such a recommendation within 30 days after the proposal is submitted to it, the Water Planning Commission shall be deemed to have made a recommendation that the proposal conforms to the Comprehensive Plan. The Board shall consider the recommendation of the Water Planning Commission and approve or disapprove the proposal as conforming to the Comprehensive Plan. Any disapproval must be accompanied by recommended actions to be taken to make the proposal conform to the Comprehensive Plan. The Water Planning Commission and the Board shall limit their review to the substance and content of the Comprehensive Plan and shall not consider the merits or deficiencies of a proposal in a manner other than is necessary to enable them to make a determination concerning conformance with the Comprehensive Plan.

4. The Board shall provide, by resolution after holding a hearing, for the Water Planning Commission or its staff to make final decisions concerning the conformance of classes of proposed facilities to the Comprehensive Plan. A resolution adopted pursuant to this section must provide an opportunity for the applicant or a protestant to appeal from a decision of the Water Planning Commission or its staff to the Board.

Sec. 52. **Any water right or source of water belonging to a governmental entity within the planning area must be used in accordance with the Comprehensive Plan.**

Sec. 53. **The provisions of this Act do not supersede the authority granted by law to the State Engineer, the State Environmental Commission and the State Department of Conservation and Natural Resources.**

Sec. 54. **NRS 540A.060, 540A.070, 540A.080, 540A.090, 540A.100, 540A.110, 540A.120, 540A.130, 540A.140, 540A.150, 540A.160, 540A.170, 540A.180, 540A.190, 540A.200, 540A.210, 540A.220, 540A.230, 540A.290, 540A.300 and 540A.310 are hereby repealed.**

Sec. 55. **The fee authorized pursuant to NRS 540A.070 must remain in effect and be collected by Washoe County and transferred to the Western Regional Water Commission, created pursuant to section 23 of this act, until such time as the Board of Trustees of the Regional Water Commission adopts a resolution pursuant to section 35 of this act imposing a new fee.**

Sec. 56. **1. There is hereby created the Legislative Committee to Oversee the Western Regional Water Commission created pursuant to section 23 of this act. The Committee must:**

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;

(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Western Regional Water Commission. The review must include an analysis of potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Western Regional Water Commission.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and

place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 57. **1. This section and section 56 of this act become effective on July 1, 2007.**

2. Sections 1 to 23, inclusive, and 25 to 55, inclusive, of this act become effective on April 1, 2008.

3. Section 24 of this act:

(a) Becomes effective on:

(1) July 1, 2007, for the purposes of authorizing the entities set forth in that section to enter into the cooperative agreement specified in that section; and

(2) April 1, 2008, for all other purposes, if the cooperative agreement specified in that section is entered into before that date.

(b) Expires by limitation on April 1, 2008, if the cooperative agreement specified in that section has not been entered into before that date.

4. Section 56 of this act expires by limitation on July 1, 2013.

LEADLINES OF REPEALED SECTIONS

540A.060 Conservation; sewerage; public information; recommendations concerning management and use of water.

540A.070 Imposition and collection of fee for planning and administration of chapter and implementation of certain plans.

540A.080 Creation; voting membership; terms of members; vacancies.

540A.090 Nonvoting membership.

540A.100 Qualifications of members.
540A.110 Selection of chairman.
540A.120 Meetings; quorum; compensation of members.
540A.130 Development and revision; contents.
540A.140 Required elements.
540A.150 Consistency with other plans and federal law.
540A.160 Consideration of information from other entities and persons; review of other plans; coordination.
540A.170 Public hearings; adoption of resolution for submission of plan or amendment.
540A.180 Submission of plan or amendment to board; board required to hold public hearing; notice; copy of proposed plan or amendment to be available for public inspection.
540A.190 Changes and additions.
540A.200 Review by regional planning commission; effect of nonconformity with comprehensive regional plan.
540A.210 Appeal of determination by regional planning commission.
540A.220 Periodic review.
540A.230 Construction of certain facilities following approval of plan.
540A.290 Property or facility of county: Transfer to or operation or management by largest supplier in region which is public utility.
540A.300 Agreement between board and largest supplier in region which is public utility; compliance with regulations of Public Utilities Commission of Nevada; withholding of certain information from board.
540A.310 Duties of largest supplier in region which is public utility.

Assemblywoman Kirkpatrick moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 487.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:36 p.m.

ASSEMBLY IN SESSION

At 9:39 p.m.
Madam Speaker presiding.
Quorum present.

SPECIAL ORDERS OF THE DAY

Vetoed Assembly Bill No. 364 of the 74th Session.
Governor’s message stating his objections read.

OFFICE OF THE GOVERNOR

June 4, 2007

The Honorable Barbara Buckley, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, Nevada, 89701

RE: Assembly Bill No. 364 of the 74th Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 364, which is entitled:

> AN ACT relating to criminal procedure; authorizing a defendant to submit a statement concerning the results of a preliminary hearing to a grand jury; and providing other matters properly relating thereto.

This bill would allow a defendant in a criminal proceeding to make a statement to a grand jury regarding certain findings from a preliminary hearing. This would result in a dramatic and unwarranted departure from existing criminal justice procedure in Nevada.

The purpose of the grand jury is not to try a case, but to establish whether cause exists to issue an indictment. This bill would open the door to future changes to the fundamental nature of grand jury proceedings. The rights of defendants are already adequately protected during the grand jury phase, from the right of the grand jury to call witnesses to the obligation of a prosecuting attorney to submit exculpatory evidence to the grand jury.

The grand jury system is a fair and workable system that protects the rights of defendants and there is no compelling need to change it.

For all of these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill No. 364.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Horne, Anderson, Mabey, and Parks.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 364:

YEAS—31.

NAYS—Beers, Christensen, Cobb, Gansert, Goedhart, Hardy, Mabey, Marvel, Settelmeyer, Stewart, Weber—11.

Assembly Bill No. 364 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Senate Bill No. 319, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 319 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 629, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Senate Bill No. 192, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were referred Senate Bills Nos. 287, 326, 365, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Senate Bill No. 572, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 572 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 629.

Bill read third time.

Remarks by Assemblywomen Leslie and Gansert.

Conflict of interest declared by Assemblymen Conklin, Hogan, Mortenson, Parks, and Settelmeyer.

Potential conflict of interest declared by Assemblymen McClain, Manendo, Leslie, Horne, Kihuen, and Oceguera.

Roll call on Assembly Bill No. 629:

YEAS—34.

NAYS—Beers, Christensen, Cobb—3.

NOT VOTING—Conklin, Hogan, Mortenson, Parks, Settelmeyer—5.

Assembly Bill No. 629 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 192 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 287 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 326 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 365 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 625.

The following Senate amendment was read:

Amendment No. 1108.

AN ACT relating to court programs; reducing the allocation of administrative assessments for use by the Supreme Court to provide an allocation for specialty court programs; eliminating the requirement that the Court Administrator submit a domestic violence report in 2009; ~~[removing the provision that allows participation in biweekly counseling sessions instead of weekly sessions for persons who commit domestic battery and reside in an area where counseling programs are not offered;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that 60 percent of the proceeds from certain administrative assessments be distributed to the Court Administrator for use by the Supreme Court. (NRS 176.059) Section 1 of this bill reduces that allocation to 48 percent and requires the remaining 12 percent to be allocated for use by specialty court programs.

Existing law requires the Court Administrator to submit to the Director of the Legislative Counsel Bureau biennially a written report concerning the effectiveness of counseling programs for persons who commit domestic violence. (NRS 1.360) Sections 2 and 3 of this bill eliminate this requirement after 2007.

~~[Existing law authorizes a court, until June 30, 2009, to allow a person to participate in counseling sessions on a biweekly basis instead of weekly if the person lives more than 70 miles from the nearest location at which counseling services are available. (NRS 200.485) Section 4 of this bill eliminates this authority, resulting in a requirement of counseling on a weekly basis, after June 30, 2007.]~~

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

Section 1. NRS 176.059 is hereby amended to read as follows:

176.059 1. Except as otherwise provided in subsection 2, when a defendant pleads guilty or is found guilty of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment
$5 to $49	$25
50 to 59	40
60 to 69	45
70 to 79	50
80 to 89	55
90 to 99	60
100 to 199	70
200 to 299	80
300 to 399	90
400 to 499	100
500 to 1,000	115

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

4. If the justice or judge permits the fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute

partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.

5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the justice courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

7. The money apportioned to a juvenile court, a justice court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:

(a) Training and education of personnel;

(b) Acquisition of capital goods;

(c) Management and operational studies; or

(d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to subsections 5 and 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:

(1) Eighteen and one-half percent of the amount distributed to the Office of Court Administrator for the administration of the courts.

(2) Nine percent of the amount distributed to the Office of Court Administrator for the development of a uniform system for judicial records.

(3) Nine percent of the amount distributed to the Office of Court Administrator for continuing judicial education.

(4) ~~[Sixty]~~ ***Forty-eight*** percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

(5) Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices and retired district judges.

(6) Twelve percent of the amount distributed to the Office of Court Administrator for the provision of specialty court programs.

(b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:

(1) The Central Repository for Nevada Records of Criminal History;

(2) The Peace Officers' Standards and Training Commission;

(3) The operation by the Nevada Highway Patrol of a computerized switching system for information related to law enforcement;

(4) The Fund for the Compensation of Victims of Crime; and

(5) The Advisory Council for Prosecuting Attorneys.

9. As used in this section:

(a) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.

(b) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

Sec. 2. NRS 1.360 is hereby amended to read as follows:

1.360 Under the direction of the Supreme Court, the Court Administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this State and

make recommendations, through the Chief Justice, for the improvement of those procedures;

2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;

3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;

4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the State Court System and transmit that information to the Supreme Court so that proper action may be taken in respect thereto;

5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the State Court System and make recommendations in respect thereto;

6. Develop procedures for accounting, internal auditing, procurement and disbursement for the State Court System;

7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the State Court System and the offices connected therewith;

8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 and make reports as to the cases filed in the district courts;

9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the State Court System;

10. On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;

11. On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:

(a) The distribution of money deposited in the special account created pursuant to NRS 176.0613 to assist with funding and establishing specialty court programs;

(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and

(c) Such other related information as the Court Administrator deems appropriate;

12. On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person;

13. On or before February 15 ~~[of each odd-numbered year,]~~ *, 2007,* submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of participation in counseling sessions in a program for the treatment of persons who commit domestic violence ordered by a court pursuant to NRS 200.485 and the effect of such counseling sessions on recidivism of the offenders who commit battery which constitutes domestic violence pursuant to NRS 33.018; and

14. Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.

Sec. 3. Section 3 of chapter 162, Statutes of Nevada 2005, at page 536, is hereby amended to read as follows:

Sec. 3. The report submitted to the Legislature by the Court Administrator in 2007 ~~[and 2009]~~ pursuant to subsection 13 of NRS 1.360, as amended by this act, must include information concerning the effectiveness of biweekly counseling sessions and the effect, if any, of participating in biweekly counseling sessions on recidivism of offenders.

Sec. 4. ~~[Section 5 of chapter 162, Statutes of Nevada 2005, at page 537, is hereby amended to read as follows:~~

~~Sec. 5. 1. This act becomes effective on July 1, 2005.~~

~~2. The amendatory provisions of section 1 of this act expire by limitation on June 30, [2009.] 2007.]~~ **(Deleted by amendment.)**

Sec. 5. 1. This section and sections 2, 3 and 4 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 2008.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 625.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 266, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 862 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 23, which is attached to and hereby made a part of this report.

SUSAN GERHARDT	STEVEN HORSFORD
ROSEMARY WOMACK	
LYNN STEWART	VALERIE WIENER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA23.

AN ACT relating to public health; requiring certain prenatal tests for pregnant women under certain circumstances; requiring certain tests for the

human immunodeficiency virus for pregnant women and newborn children under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill requires a provider of health care to ensure that a woman receives, as part of the routine prenatal care recommended for all pregnant women during the first trimester of pregnancy, a test for the human immunodeficiency virus unless the woman chooses not to be tested. Section 6 requires a provider of health care to ensure that a pregnant woman receives a test for human immunodeficiency virus during her third trimester if she receives health care in a jurisdiction with a high prevalence of human immunodeficiency virus or acquired immunodeficiency syndrome among women of child-bearing age or in a high-risk clinical setting or if she reports that she has one or more of the risk factors identified by the Centers for Disease Control and Prevention, unless the woman chooses not to be tested. Section 6 also requires a provider of health care to ensure that a pregnant woman receives a rapid test for the human immunodeficiency virus during childbirth if she has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available, unless the woman chooses not to be tested. If a rapid test is administered and the result of the rapid test is positive, the provider of health care must offer to initiate antiretroviral prophylaxis as soon as practicable without waiting for the results of any other test administered to confirm the result of the rapid test.

Section 7 of this bill requires a provider of health care who attends or assists at the delivery of a child to ensure that a test for the human immunodeficiency virus is performed on the child if the mother has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available, unless a parent or legal guardian of the child objects that performance of the test is contrary to the religious beliefs of the parent or legal guardian.

Section 10 of this bill requires a provider of health care to ensure that, before a woman or newborn child receives any test set forth in this bill, the woman or the parent or legal guardian of the newborn child receives a pamphlet containing information about the human immunodeficiency virus, the test offered pursuant to this bill, the right to refuse the test and other relevant information.

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[9,]~~ **10,** inclusive, of this act.

Sec. 2. ***As used in sections 2 to ~~[9,]~~ 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Provider of health care" means:***

1. A provider of health care as defined in NRS 629.031;

2. A midwife; and

3. An obstetric center licensed pursuant to chapter 449 of NRS.

Sec. 4. ***"Rapid test for the human immunodeficiency virus" or "rapid test" means a test that:***

1. Is used to detect the presence of antibodies to the human immunodeficiency virus; and

2. Provides a result in 30 minutes or less.

Sec. 5. ***1. Any test for the human immunodeficiency virus, including, without limitation, a rapid test, that is used to carry out the provisions of sections 2 to ~~[9,]~~ 10, inclusive, of this act must be approved by the United States Food and Drug Administration.***

2. Each test administered to a woman or performed on a child pursuant to the provisions of sections 2 to ~~[9,]~~ 10, inclusive, of this act must be administered or performed in accordance with:

(a) The provisions of chapter 652 of NRS and any regulations adopted pursuant thereto; and

(b) The Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable.

Sec. 6. ***1. A provider of health care who provides prenatal care to a woman during the first trimester of her pregnancy shall ensure that the woman receives, at her first visit or as soon thereafter as practicable, the routine prenatal screening tests recommended for all pregnant women by the Centers for Disease Control and Prevention, including, without limitation, a screening test for the human immunodeficiency virus, unless the woman chooses not to have a screening test for the human immunodeficiency virus or any of the other prenatal screening tests.***

2. A provider of health care who provides prenatal care to a woman during the third trimester of her pregnancy shall ensure that the woman receives, between the 27th and the 36th week of gestation or as soon thereafter as practicable, a test for the human immunodeficiency virus if she:

(a) Has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available; or

(b) Is at high risk for infection with the human immunodeficiency virus,
↪ unless the woman chooses not to have such a test.

3. A provider of health care who attends or assists a woman during childbirth shall:

(a) Ensure that the woman receives a rapid test for the human immunodeficiency virus if she has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available, unless the woman chooses not to have such a test; and

(b) If the rapid test is administered and the result of the rapid test is positive for the presence of antibodies to the human immunodeficiency virus, offer to initiate antiretroviral prophylaxis to reduce the risk of perinatal transmission of the human immunodeficiency virus as soon as practicable after receiving the result of the rapid test and without waiting for the results of any other test administered to confirm the result of the rapid test.

4. For the purposes of this section, a woman is at high risk for infection with the human immunodeficiency virus if she:

(a) Receives health care in:

(1) A jurisdiction that the Centers for Disease Control and Prevention has identified as having an elevated incidence of human immunodeficiency virus or acquired immunodeficiency syndrome among women between the ages of 15 and 45 years; or

(2) A health care facility that, under the standards of the Centers for Disease Control and Prevention, is considered a high-risk clinical setting because prenatal screening has identified at least one pregnant woman who is infected with the human immunodeficiency virus for each 1,000 pregnant women screened at the facility; or

(b) Reports having one or more of the risk factors for infection with the human immunodeficiency virus identified by the Centers for Disease Control and Prevention, including, without limitation:

(1) Engaging in sexual activities with more than one person during the pregnancy without using effective measures to protect against the transmission of the human immunodeficiency virus.

(2) Engaging in sexual activity with another person in exchange for money or other compensation.

(3) Engaging in sexual activity with another person who is infected with the human immunodeficiency virus or who has one or more of the risk factors for infection with the human immunodeficiency virus identified by the Centers for Disease Control and Prevention.

(4) Receiving treatment for a sexually transmitted disease.

(5) Using a controlled substance or a dangerous drug.

(6) Receiving a blood transfusion between 1978 and 1985, inclusive.

5. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.

Sec. 7. ***A provider of health care who attends or assists at the delivery of a child shall, if the mother has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available, ensure that a rapid test for the human immunodeficiency virus is performed on the child unless a parent or legal guardian of the child objects to the performance of the test because it is contrary to the religious beliefs of the parent or legal guardian.***

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. ***A provider of health care shall ensure that, before a woman or newborn child receives any test that is used to carry out the provisions of sections 2 to 10, inclusive, of this act, the woman or the parent or legal guardian of the newborn child receives a pamphlet of information concerning:***

1. The human immunodeficiency virus and acquired immunodeficiency syndrome;

2. The test that will be administered pursuant to sections 2 to 10, inclusive, of this act and the benefits and consequences of the test;

3. Transmission of the human immunodeficiency virus and how to prevent its transmission;

4. If the pamphlet is for a woman being tested pursuant to section 6 of this act, the right of a woman to refuse a test;

5. If the pamphlet is for the parent or legal guardian of a newborn child being tested pursuant to section 7 of this act, the right of the parent or legal guardian to object to a test of a newborn child because it is contrary to the religious beliefs of the parent or legal guardian; and

6. Any other information recommended by the Department or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that the provider of health care determines useful.

Assemblywoman Gerhardt moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 266.

Remarks by Assemblywoman Gerhardt.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 544, Amendment No. 1172, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 579.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 540.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 1159 to Senate Bill No. 73; Assembly Amendment No. 1161 to Senate Bill No. 123.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 304; Assembly Bill No. 396; Assembly Bill No. 460; Assembly Bill No. 497; Senate Bill No. 516.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 516, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 895 and 1031 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 40, which is attached to and hereby made a part of this report.

KELVIN ATKINSON	JOHN LEE
HARVEY MUNFORD	WILLIAM RAGGIO
JAMES SETTELMEYER	WARREN HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA40.

SUMMARY—Revises provisions governing the compensation **and reimbursement** of certain elected county officers. (BDR 20-225)

AN ACT relating to public officers; revising the provisions governing the compensation of certain elected county officers; **revising certain provisions relating to the payment of per diem allowances and travel expenses;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill increases, by ~~[3]~~ **4** percent for each of Fiscal Years 2007-2008, 2008-2009, 2009-2010 and 2010-2011, the maximum amount at which the board of county commissioners may set the annual salary for a county commissioner of that county. Section 1 also increases ~~[, by 3 percent for each of Fiscal Years 2007-2008, 2008-2009, 2009-2010 and 2010-2011,]~~ the compensation to be paid to certain other elected county officers. **For Fiscal Year 2007-2008, the total increase is 7 percent, which includes a base salary increase of 4 percent and an additional increase in compensation of 3 percent. For each of Fiscal Years 2008-2009, 2009-2010 and 2010-2011, the increase in compensation is 3 percent.** (NRS 245.043)

Under existing law, a board of county commissioners must reimburse an eligible county or township officer or employee of the county for the actual living expenses incurred during travel conducted for the transaction of public business and may allow reimbursement for traveling by private conveyance, but if a private conveyance is used for reasons of personal convenience in the transaction of state business, the standard mileage reimbursement rate for traveling by private conveyance is limited to one-half the established rate for which a deduction is allowed for the purposes of federal income tax. (NRS 245.060, 281.160) Section 2.5 of this bill allows the board of county commissioners of a county to provide to such an officer or employee a per diem allowance and travel expenses at the full rate established for employees of the Federal Government, provided that the travel for the

transaction of public business is for a period of not more than 5 consecutive working days at a time.

Pursuant to section 3 of this bill, the increases **in salary and compensation** applicable **pursuant** to ~~[,]~~ **section 1 of this bill for:** (1) Fiscal Year 2007-2008, become effective on July 1, 2007; (2) Fiscal Year 2008-2009, become effective on July 1, 2008; (3) Fiscal Year 2009-2010, become effective on July 1, 2009; and (4) Fiscal Year 2010-2011, become effective on July 1, 2010. However, section 4 of this bill authorizes a county that has not commenced payment of the increased annual salaries to request and receive a waiver from payment of the increases based on insufficient financial resources. If a waiver is granted for any fiscal year, section 4 prohibits retroactive payment of the increases for that fiscal year.

Section 1 **of this bill** also changes the salary classification of Storey County ~~[,]~~ **to the category of a county of class 4,** thereby increasing the amount of the annual salaries paid to its elected county officers. **Section 3.5 of this bill provides that the change in the salary classification of Storey County is retroactive to January 1, 2003, for the purpose of determining the maximum salary payable to members of the board of county commissioners of Storey County.** Section 2 of this bill clarifies that county commissioners are eligible for longevity pay. (NRS 245.044)

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

Section 1. NRS 245.043 is hereby amended to read as follows:

245.043 1. As used in this section:

(a) "County" includes Carson City.

(b) "County commissioner" includes the Mayor and supervisors of Carson City.

2. Except as otherwise provided by any special law, the elected officers of the counties of this State are entitled to receive ***, for the appropriate fiscal year,*** annual salaries in the base amounts specified in the following table. The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

ANNUAL SALARIES

Class	County	District Attorney	Sheriff	County Clerk	County Assessor	County Recorder	County Treasurer	Public Administrator
1	Clark	~~[$155,745~~	~~$134,263~~	~~$91,138~~	~~$91,138~~	~~$91,138~~	~~$91,138~~	~~$91,138]~~
FY 2007-2008		***~~[$160,417~~***	***~~$138,291~~***	***~~$93,872~~***	***~~$93,872~~***	***~~$93,872~~***	***~~$93,872~~***	***~~$93,872]~~***
		166,647	***143,661***	***97,518***	***97,518***	***97,518***	***97,518***	***97,518***
FY 2008-2009		***~~[165,230~~***	***~~142,440~~***	***~~96,668~~***	***~~96,668~~***	***~~96,668~~***	***~~96,668~~***	***~~96,668]~~***
		171,647	***147,971***	***100,443***	***100,443***	***100,443***	***100,443***	***100,443***
FY 2009-2010		***~~[170,187~~***	***~~146,713~~***	***~~99,589~~***	***~~99,589~~***	***~~99,589~~***	***~~99,589~~***	***~~99,589]~~***
		176,796	***152,410***	***103,456***	***103,456***	***103,456***	***103,456***	***103.456***
FY 2010-2011		***~~[175,293~~***	***~~151,114~~***	***~~102,577~~***	***~~102,577~~***	***~~102,577~~***	***~~102,577~~***	***~~102,577]~~***

	182,100	***156,983***	***106,560***	***106,560***	***106,560***	***106,560***	***106,560***
2 Washoe	[137,485	110,632	83,543	83,543	83,543	83,543	83,543]
FY 2007-2008	***[141,610***	***113,951***	***86,049***	***86,049***	***86,049***	***86,049***	***86,049]***
	147,109	***118,376***	***89,391***	***89,391***	***89,391***	***89,391***	***89,391***
FY 2008-2009	***[145,858***	***117,370***	***88,630***	***88,630***	***88,630***	***88,630***	***88,630]***
	151,522	***121,928***	***92,073***	***92,073***	***92,073***	***92,073***	***92,073***
FY 2009-2010	***[150,234***	***120,891***	***91,289***	***91,289***	***91,289***	***91,289***	***91,289]***
	156,068	***125,585***	***94,835***	***94,835***	***94,835***	***94,835***	***94,835***
FY 2010-2011	***[154,741***	***124,518***	***94,028***	***94,028***	***94,028***	***94,028***	***94,028]***
	$160,750	***$129,353***	***$97,680***	***$97,680***	***$97,680***	***$97,680***	***$97,680***
3 Carson City	[98,707	81,846	65,012	65,012	--------	65,012	-----]
FY 2007-2008	***[101,668***	***84,301***	***66,962***	***66,962***		***66,962]***	
	105,616	***87,575***	***69,563***	***69,563***	***69,563***	***69,563***	
FY 2008-2009	***[104,718***	***86,830***	***68,971***	***68,971***		***68,971]***	
	108,785	***90,202***	***71,650***	***71,650***	***71,650***	***71,650***	
FY 2009-2010	***[107,860***	***89,435***	***71,040***	***71,040***		***71,040]***	
	112,049	***92,909***	***73,799***	***73,799***	***73,799***	***73,799***	
FY 2010-2011	***[111,096***	***92,118***	***73,171***	***73,171***		***73,171]***	
	115,410	***95,696***	***76,013***	***76,013***	***76,013***	***76,013***	
Churchill	[98,707	81,846	65,012	65,012	65,012	--------	-----]
FY 2007-2008	***[101,668***	***84,301***	***66,962***	***66,962***	***66,962]***		
	105,616	***87,575***	***69,563***	***69,563***	***69,563***	***69,563***	
FY 2008-2009	***[104,718***	***86,830***	***68,971***	***68,971***	***68,971]***		
	108,785	***90,202***	***71,650***	***71,650***	***71,650***	***71,650***	
FY 2009-2010	***[107,860***	***89,435***	***71,040***	***71,040***	***71,040]***		
	112,049	***92,909***	***73,799***	***73,799***	***73,799***	***73,799***	
FY 2010-2011	***[111,096***	***92,118***	***73,171***	***73,171***	***73,171]***		
	115,410	***95,696***	***76,013***	***76,013***	***76,013***	***76,013***	
Douglas	[98,707	81,846	65,012	65,012	65,012	--------	-----]
FY 2007-2008	***[101,668***	***84,301***	***66,962***	***66,962***	***66,962]***		
	105,616	***87,575***	***69,563***	***69,563***	***69,563***	***69,563***	
FY 2008-2009	***[104,718***	***86,830***	***68,971***	***68,971***	***68,971]***		
	108,785	***90,202***	***71,650***	***71,650***	***71,650***	***71,650***	
FY 2009-2010	***[107,860***	***89,435***	***71,040***	***71,040***	***71,040]***		
	112,049	***92,909***	***73,799***	***73,799***	***73,799***	***73,799***	
FY 2010-2011	***[111,096***	***92,118***	***73,171***	***73,171***	***73,171]***		
	115,410	***95,696***	***76,013***	***76,013***	***76,013***	***76,013***	
Elko	[98,707	81,846	65,012	65,012	65,012	65,012	-----]
FY 2007-2008	***[101,668***	***84,301***	***66,962***	***66,962***	***66,962***	***66,962]***	
	105,616	***87,575***	***69,563***	***69,563***	***69,563***	***69,563***	
FY 2008-2009	***[104,718***	***86,830***	***68,971***	***68,971***	***68,971***	***68,971]***	
	108,785	***90,202***	***71,650***	***71,650***	***71,650***	***71,650***	
FY 2009-2010	***[107,860***	***89,435***	***71,040***	***71,040***	***71,040***	***71,040***	***]***
	112,049	***92,909***	***73,799***	***73,799***	***73,799***	***73,799***	
FY 2010-2011	***[111,096***	***92,118***	***73,171***	***73,171***	***73,171***	***73,171]***	
	115,410	***95,696***	***76,013***	***76,013***	***76,013***	***76,013***	
Humboldt	[98,707	81,846	65,012	65,012	65,012	65,012	-----]
FY 2007-2008	***[101,668***	***84,301***	***66,962***	***66,962***	***66,962***	***66,962]***	
	105,616	***87,575***	***69,563***	***69,563***	***69,563***	***69,563***	
FY 2008-2009	***[104,718***	***86,830***	***68,971***	***68,971***	***68,971***	***68,971]***	
	108,785	***90,202***	***71,650***	***71,650***	***71,650***	***71,650***	
FY 2009-2010	***[107,860***	***89,435***	***71,040***	***71,040***	***71,040***	***71,040]***	
	112,049	***92,909***	***73,799***	***73,799***	***73,799***	***73,799***	
FY 2010-2011	***[111,096***	***92,118***	***73,171***	***73,171***	***73,171***	***73,171]***	
	115,410	***95,696***	***76,013***	***76,013***	***76,013***	***76,013***	
Lyon	[98,707	81,846	65,012	65,012	65,012	--------	-----]
FY 2007-2008	***[101,668***	***84,301***	***66,962***	***66,962***	***66,962***		***]***
	105,616	***87,575***	***69,563***	***69,563***	***69,563***	***69,563***	
FY 2008-2009	***[104,718***	***86,830***	***68,971***	***68,971***	***68,971]***		
	108,785	***90,202***	***71,650***	***71,650***	***71,650***	***71,650***	
FY 2009-2010	***[107,860***	***89,435***	***71,040***	***71,040***	***71,040]***		
	$112,049	***$92,909***	***$73,799***	***$73,799***	***$73,799***	***$73,799***	
FY 2010-2011	***[111,096***	***92,118***	***73,171***	***73,171***	***73,171]***		
	115,410	***95,696***	***76,013***	***76,013***	***76,013***	***76,013***	

Nye	[98,707	81,846	65,012	65,012	65,012	65,012	------]
FY 2007-2008	*[101,668*	*84,301*	*66,962*	*66,962*	*66,962*	*66,962]*	
	105,616	***87,575***	***69,563***	***69,563***	***69,563***	***69,563***	
FY 2008-2009	*[104,718*	*86,830*	*68,971*	*68,971*	*68,971*	*68,971]*	
	108,785	***90,202***	***71,650***	***71,650***	***71,650***	***71,650***	
FY 2009-2010	*[107,860*	*89,435*	*71,040*	*71,040*	*71,040*	*71,040]*	
	112,049	***92,909***	***73,799***	***73,799***	***73,799***	***73,799***	
FY 2010-2011	*[111,096*	*92,118*	*73,171*	*73,171*	*73,171*	*73,171*	*]*
	115,410	***95,696***	***76,013***	***76,013***	***76,013***	***76,013***	
4 Lander	[93,223	73,662	54,227	54,227	54,227	54,227	----]
FY 2007-2008	*[96,020*	*75,872*	*55,854*	*55,854*	*55,854*	*55,854]*	
	99,749	***78,818***	***58,023***	***58,023***	***58,023***	***58,023***	
FY 2008-2009	*[98,901*	*78,148*	*57,530*	*57,530*	*57,530*	*57,530]*	
	102,741	***81,183***	***59,764***	***59,764***	***59,764***	***59,764***	
FY 2009-2010	*[101,868*	*80,492*	*59,256*	*59,256*	*59,256*	*59,256]*	
	105,823	***83,618***	***61,556***	***61,556***	***61,556***	***61,556***	
FY 2010-2011	*[104,924*	*82,907*	*61,034*	*61,034*	*61,034*	*61,034]*	
	108,998	***86,127***	***63,403***	***63,403***	***63,403***	***63,403***	
Storey							
FY 2007-2008	*[96,020*	*75,872*	*55,854*	*55,854*	*55,854*	*55,854]*	
	99,749	***78,818***	***58,023***	***58,023***	***58,023***	***58,023***	
FY 2008-2009	*[98,901*	*78,148*	*57,530*	*57,530*	*57,*530	*57,530]*	
	102,741	***81,183***	***59,764***	***59,764***	***59,764***	***59,764***	
FY 2009-2010	*[101,868*	*80,492*	*59,256*	*59,256*	*59,256*	*59,256]*	
	105,823	***83,618***	***61,556***	***61,556***	***61,556***	***61,556***	
FY 2010-2011	*[104,924*	*82,907*	*61,034*	*61,034*	*61,034*	*61,034]*	
	108,998	***86,127***	***63,403***	***63,403***	***63,403***	***63,403***	
White Pine	[93,223	73,662	54,227	54,227	54,227	54,227	----]
FY 2007-2008	*[96,020*	*75,872*	*55,854*	*55,854*	*55,854*	*55,854*	*]*
	99,749	***78,818***	***58,023***	***58,023***	***58,023***	***58,023***	
FY 2008-2009	*[98,901*	*78,148*	*57,530*	*57,530*	*57,530*	*57,530*	*]*
	102,741	***81,183***	***59,764***	***59,764***	***59,764***	***59,764***	
FY 2009-2010	*[101,868*	*80,492*	*59,256*	*59,256*	*59,256*	*59,256]*	
	105,823	***83,618***	***61,556***	***61,556***	***61,556***	***61,556***	
FY 2010-2011	*[104,924*	*82,907*	*61,034*	*61,034*	*61,034*	*61,034]*	
	108,998	***86,127***	***63,403***	***63,403***	***63,403***	***63,403***	
5 Eureka	[82,256	58,929	48,607	48,607	48,607	------	----]
FY 2007-2008	*[84,724*	*60,697*	*50,065*	*50,065*	*50,065*	*]*	
	88,014	***63,054***	***52,009***	***52,009***	***52,009***	***52,009***	
FY 2008-2009	*[87,266*	*62,518*	*51,567*	*51,567*	*51,567*	*]*	
	90,654	***64,946***	***53,570***	***53,570***	***53,570***	***53,570***	
FY 2009-2010	*[89,884*	*64,394*	*53,114*	*53,114*	*53,114*	*]*	
	93,374	***66,894***	***55,177***	***55,177***	***55,177***	***55,177***	
FY 2010-2011	*[92,581*	*66,326*	*54,707*	*54,707*	*54,707*	*]*	
	96,175	***68,901***	***56,832***	***56,832***	***56,832***	***56,832***	
Lincoln	[82,256	58,929	48,607	48,607	48,607	48,607	----]
FY 2007-2008	*[84,724*	*60,697*	*50,065*	*50,065*	*50,065*	*50,065]*	
	88,014	***63,054***	***52,009***	***52,009***	***52,009***	***52,009***	
FY 2008-2009	*[87,266*	*62,518*	*51,567*	*51,567*	*51,567*	*51,567]*	
	$90,654	***$64,946***	***$53,570***	***$53,570***	***$53,570***	***$53,570***	
FY 2009-2010	*[89,884*	*64,394*	*53,114*	*53,114*	*53,114*	*53,114]*	
	93,374	***66,894***	***55,177***	***55,177***	***55,177***	***55,177***	
FY 2010-2011	*[92,581*	*66,326*	*54,707*	*54,707*	*54,707*	*54,707]*	
	96,175	***68,901***	***56,832***	***56,832***	***56,832***	***56,832***	
Mineral	[82,256	58,929	48,607	48,607	48,607	------	----]
FY 2007-2008	*[84,724*	*60,697*	*50,065*	*50,065*	*50,065*	*]*	
	88,014	***63,054***	***52,009***	***52,009***	***52,009***	***52,009***	
FY 2008-2009	*[87,266*	*62,518*	*51,567*	*51,567*	*51,567*	*]*	
	90,654	***64,946***	***53,570***	***53,570***	***53,570***	***53,570***	
FY 2009-2010	*[89,884*	*64,394*	*53,114*	*53,114*	*53,114*	*]*	
	93,374	***66,894***	***55,177***	***55,177***	***55,177***	***55,177***	
FY 2010-2011	*[92,581*	*66,326*	*54,707*	*54,707*	*54,707*	*]*	
	96,175	***68,901***	***56,832***	***56,832***	***56,832***	***56,832***	
Pershing	[82,256	58,929	48,607	48,607	48,607	------	----]

FY 2007-2008	*[84,724*	*60,697*	*50,065*	*50,065*	*50,065*	*]*	
	88,014	***63,054***	***52,009***	***52,009***	***52,009***	***52,009***	
FY 2008-2009	*[87,266*	*62,518*	*51,567*	*51,567*	*51,567*	*]*	
	90,654	***64,946***	***53,570***	***53,570***	***53,570***	***53,570***	
FY 2009-2010	*[89,884*	*64,394*	*53,114*	*53,114*	*53,114*	*]*	
	93,374	***66,894***	***55,177***	***55,177***	***55,177***	***55,177***	
FY 2010-2011	*[92,581*	*66,326*	*54,707*	*54,707*	*54,707*	*]*	
	96,175	***68,901***	***56,832***	***56,832***	***56,832***	***56,832***	
[Storey]	[82,256	58,929	48,607	48,607	48,607	-------	----]
6 Esmeralda	[65,314	52,382	42,531	42,531	42,531	-------	----]
FY 2007-2008	*[67,273*	*53,953*	*43,807*	*43,807*	*43,807*	*]*	
	69,886	***56,049***	***45,508***	***45,508***	***45,508***		
FY 2008-2009	*[69,291*	*55,572*	*45,121*	*45,121*	*45,121*	*]*	
	71,983	***57,730***	***46,873***	***46,873***	***46,873***		
FY 2009-2010	*[71,370*	*57,239*	*46,475*	*46,475*	*46,475]*		
	74,142	***59,462***	***48,280***	***48,280***	***48,280***		
FY 2010-2011	*[73,511*	*58,956*	*47,869*	*47,869*	*47,869]*		
	76,366	***61,246***	***49,728***	***49,728***	***49,728***		

3. A board of county commissioners may, by a vote of at least a majority of all the members of the board, set the annual salary for the county commissioners of that county, but in no event may the annual salary exceed an amount which equals ~~[126.65]~~ *:*

(a) For Fiscal Year 2007-2008, ~~[130.450]~~ 131.716 percent *;*

(b) For Fiscal Year 2008-2009, ~~[134.364]~~ 136.985 percent;

(c) For Fiscal Year 2009-2010, ~~[138.395]~~ 142.464 percent; and

(d) For Fiscal Year 2010-2011, ~~[142.547]~~ 148.163 percent,

➥ of the amount of the annual salary for the county commissioners of that county that was in effect by operation of statute on January 1, 2003.

Sec. 2. NRS 245.044 is hereby amended to read as follows:

245.044 1. On and after July 1, 1973, if an elected county officer has served in his office for more than 4 years, he is entitled to an additional salary of 2 percent of his base salary ***for the appropriate fiscal year as*** provided in ***subsection 2 of*** NRS 245.043 ***or his annual salary set pursuant to subsection 3 of NRS 245.043, as applicable,*** for each full calendar year he has served in his office.

2. The additional salary provided in this section for an eligible county officer:

(a) Must be computed on July 1 of each year by multiplying 2 percent of the base salary ***for the appropriate fiscal year as*** provided in ***subsection 2 of*** NRS 245.043 ***or the annual salary set pursuant to subsection 3 of NRS 245.043, as applicable,*** by the number of full calendar years the elected county officer has served in his office; and

(b) Must not exceed 20 percent of the base salary ***for the appropriate fiscal year*** *as* provided in ***subsection 2 of*** NRS 245.043 ~~[.]~~ ***or the annual salary set pursuant to subsection 3 of NRS 245.043, as applicable.***

3. Service on the Board of Supervisors of Carson City for the initial term which began on July 1, 1969, and ended on the first Monday of January, 1973, shall be deemed to constitute 4 full calendar years of service for the purposes of this section.

Sec. 2.5. **NRS 245.060 is hereby amended to read as follows:**

245.060 ~~[If]~~

1***. Except as otherwise provided in subsection 2, if*** a county or township officer or an employee of the county is entitled to receive reimbursement for his necessary traveling expenses for the transaction of public business, such reimbursement must include actual living expenses, but the amount allowed for traveling by private conveyance must not exceed the amount charged by public conveyance. Where it appears to the satisfaction of the board of county commissioners that travel by private conveyance is more economical, or where it appears that, owing to train, airplane or bus schedules or for other reasons, travel by public conveyance is impractical, or in case a part of the route traveled is not covered by public conveyance, the board of county commissioners, in its discretion, may allow for traveling by private conveyance an amount not to exceed the maximum per-mile allowance for travel by private conveyance of state officers and employees specified in subsection 3 of NRS 281.160.

2. The board of county commissioners of a county may provide, to any county or township officer or employee of the county who is required to travel for the transaction of public business for a period of not more than 5 consecutive working days at a time, a per diem allowance and travel expenses at the same rate as the comparable rate established for employees of the Federal Government by the Administrator of General Services pursuant to 5 U.S.C. § 5707, excluding any federal requirement, restriction or other condition which is applicable to that comparable rate.

Sec. 3. Except as otherwise provided in section 4 of this act, each county shall commence payment of the increased annual salaries of the elected officers of the county set forth in the table of annual salaries contained in subsection 2 of NRS 245.043, as amended by section 1 of this act:

1. For Fiscal Year 2007-2008, on July 1, 2007.
2. For Fiscal Year 2008-2009, on July 1, 2008.
3. For Fiscal Year 2009-2010, on July 1, 2009.
4. For Fiscal Year 2010-2011, on July 1, 2010.

Sec. 3.5. **For the purposes of calculating the maximum salary that may be paid to a county commissioner pursuant to the provisions of subsection 3 of NRS 245.043, as amended by section 1 of this act, Storey County shall be deemed to have been categorized as a county of class 4 on January 1, 2003.**

Sec. 4. 1. Except as otherwise provided in subsection 3, a board of county commissioners may apply to the Committee on Local Government Finance for a waiver from the requirement to increase the annual salaries of elected officers of the county to the annual salaries set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, for any of Fiscal Years 2007-2008, 2008-2009, 2009-2010 or 2010-2011, if the board determines that the financial resources of the county are insufficient to pay those increased annual salaries in the applicable fiscal year. The Committee on Local Government Finance shall grant such a waiver

if it finds that the financial resources of the county are insufficient to pay those increased annual salaries in the applicable fiscal year.

2. A board of county commissioners that has been granted a waiver for a fiscal year as described in subsection 1 may apply to the Committee on Local Government Finance for an additional waiver for the next consecutive fiscal year if the board determines that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in that fiscal year. There is no limitation on the number of waivers for consecutive fiscal years that the board of county commissioners may be granted if the board determines that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in that fiscal year.

3. After commencing payment of the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in any fiscal year, a board of county commissioners may not apply for a waiver in any subsequent fiscal year.

4. The increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, must not be paid retroactively for any fiscal year for which a waiver was granted to the county pursuant to subsection 1.

Sec. 5. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. This act becomes effective on July 1, 2007.

Assemblyman Atkinson moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 516.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:08 p.m.

ASSEMBLY IN SESSION

At 10:20 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Commerce and Labor:

Assembly Concurrent Resolution No. 36—Encouraging the creation of the Southern Nevada Automobile Theft Advisory Commission.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblyman Oceguera.

Resolution adopted and ordered transmitted to the Senate.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 540.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 579.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 412, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 983 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 13, which is attached to and hereby made a part of this report.

MARCUS CONKLIN	JOSEPH HECK
SUSAN GERHARDT	MICHAEL SCHNEIDER
GARN MABEY	RANDOLPH TOWNSEND
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA13.

AN ACT relating to health care; revising the method of selecting certain professionals for various boards related to health care; creating a new type of license for practicing medicine; changing the requirements for a license by endorsement to practice medicine; providing new requirements for certain nursing instructors; providing two new types of licenses for osteopathic medicine; providing a new type of license as a dispensing optician; providing in statute for the election of officers for the State Board of Physical Therapy Examiners; making various other changes relating to health care; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides methods of selecting certain persons for various boards related to health care. (NRS 630.060, 630A.110, 631.130, 632.030, 633.191, 634.020, 634A.040, 635.020, 636.035, 637.030, 637A.035, 637B.100, 639.030, 640.030, 640A.080, 640B.170, 640B.180, 640C.150,

641.040, 641A.100, 641B.100 and 641C.150) Section 1 of this bill establishes new requirements related to selecting such persons if they are members of the profession being regulated by a board. Specifically, each applicable professional association is required to provide a list of nominees to the Governor for vacant positions on such boards. The Governor may, but is not required to, appoint a person from the list.

Existing law provides certain special types of licenses that the Board of Medical Examiners may issue. (NRS 630.258-630.265) Section 3 of this bill provides a new type of license for a foreign expert physician.

Existing law provides for certain persons to receive a license by endorsement to practice medicine. (NRS 630.1605) Section 7 of this bill revises the requirements for such a license.

Existing law provides that each holder of a license to practice medicine or osteopathic medicine is required to report annually certain information concerning surgeries. (NRS 630.30665, 633.524) Sections 7.5 and 54 of this act require a separate report of certain sentinel events and provide for an administrative penalty to be imposed if the holder of the license fails to file the report or knowingly files false information in a report.

Existing law provides certain requirements and the procedures for creating requirements for schools and courses of professional nursing. (NRS 632.430-632.470) Section 11 of this bill provides for the various requirements for nursing instructors in clinical practice.

Existing law provides certain types of special licenses that the State Board of Osteopathic Medicine may issue. (NRS 633.401-633.411) Section 24 of this bill provides a new type of license for a foreign expert osteopathic physician. Section 25 of this bill provides a new type of license by endorsement to practice osteopathic medicine.

Existing law provides for the certification of osteopathic physician's assistants by the State Board of Osteopathic Medicine. (NRS 633.101, 633.431, 633.441, 633.451) Section 37 of this bill changes the title of "osteopathic physician's assistant" to "physician assistant." Sections 29 and 30 of this bill provide for the licensure, rather than certification, of such physician assistants. Sections 16, 17, 22, 36, 37, 39, 40, 43, 49, 53, 55, 58, 69, 71 and 84-118 of this bill amend various statutes in accordance with these changes.

Existing law provides requirements for the licensing of dispensing opticians. (NRS 637.090-637.140) Section 64 of this bill provides a new type of license for a person with an out-of-state license as a dispensing optician.

Existing law provides for the creation of the State Board of Physical Therapy Examiners. (NRS 640.030) Section 74 of this bill provides for the election of officers for that Board.

Section 119 of this bill repeals certain statutes, including, without limitation, NRS 632.450 which requires that the minimum length for a course of instruction in nursing is 2 years.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Governor must appoint to a board a person who is a member of a profession being regulated by that board, the Governor shall solicit nominees from one or more applicable professional associations in this State.

2. To the extent practicable, such an applicable professional association shall provide nominees who represent the geographic diversity of this State.

3. The Governor may appoint any qualified person to a board, without regard to whether the person is nominated pursuant to this section.

4. As used in this section, "board" refers to a board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 640B, 640C, 641, 641A, 641B or 641C.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 , [and] 4 ***and 5*** of this act.

Sec. 3. ***1. Except as otherwise provided in NRS 630.161, the Board may issue a restricted license to a person who:***

(a) Is a graduate of a foreign medical school;

(b) Teaches, researches or practices medicine outside the United States;

(c) Is a recognized medical expert; and

(d) Intends to teach, research or practice clinical medicine at a medical research facility or medical school in this State.

2. A person who applies for a restricted license is not required to take or pass a written examination concerning his qualifications to practice medicine, but the person must satisfy the requirements for a restricted license set forth in regulations adopted by the Board.

3. A person who holds a restricted license issued pursuant to this section may practice medicine in this State only in accordance with the terms and restrictions established by the Board.

4. If a person who holds a restricted license issued pursuant to this section ceases to teach, research or practice clinical medicine in this State at the medical research facility or medical school where he is employed:

(a) The medical research facility or medical school, as applicable, shall notify the Board; and

(b) Upon receipt of such notification, the restricted license expires automatically.

5. The Board may renew or modify a restricted license issued pursuant to this section, unless the restricted license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a restricted license to an applicant in accordance with any other provision of this chapter.

Sec. 4. (Deleted by amendment.)

Sec. 5. ***1. A private nonprofit medical school*** ~~*[that is licensed by the Commission on Postsecondary Education and approved by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges]*~~ ***or a nonprofit medical research institution may, notwithstanding any provision of law to the contrary:***

~~*[1.]*~~ ***(a) Operate as a corporation or other business organization or association with ownership or control shared by persons licensed pursuant to this chapter and persons not licensed pursuant to this chapter;***

~~*[2.]*~~ ***(b) Operate a clinic in conjunction with the school or institution which is staffed by physicians or osteopathic physicians who are employed by the school or the institution and who are:***

~~*[(a)]*~~ ***(1) Licensed pursuant to this chapter or chapter 633 of NRS, respectively; and***

~~*[(b)]*~~ ***(2) Members of the faculty of the school*** ~~*[,]*~~ ***or institution; and***

~~*[3.]*~~ ***(c) Retain all or a portion of the money generated by a clinic*** *described in* ~~*[subsection 2,]*~~ ***paragraph (b), including, without limitation, any professional income generated by a physician or osteopathic physician staffing the clinic.***

2. As used in this section, "private nonprofit medical school" means a private nonprofit medical school that is licensed by the Commission on Postsecondary Education and approved by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges.

Sec. 5.5. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence; ~~[and]~~

(b) Information reported to the Board during the previous biennium pursuant to NRS ~~[630.30665,]~~ 630.3067, 630.3068, subsections 2 and 3 of NRS 630.307 and NRS 690B.250 and 690B.260 ~~[.]~~ ***; and***

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 6. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, ***and section 3 of this act,*** a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain such certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of such postgraduate education must be as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board ~~[may]~~ ***shall, except for good cause,*** issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect ~~[;~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.]~~ *and unrestricted;* ***and***

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Sec. 7.5. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board ~~[, and in the format required by the Board by regulation,]~~ a report ~~[:~~

~~(a) Stating]~~ ***stating*** the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

~~[(1)]~~ ***(a)*** At a medical facility as that term is defined in NRS 449.0151; or

~~[(2)]~~ ***(b)*** Outside of this State . ~~[; and~~

~~(b) Reporting]~~

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any ~~[such]~~ surgery ~~[.]~~ ***described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the Administrator of the Health Division of the Department of Health and Human Services for reporting information pursuant to NRS 439.835.***

~~[2.]~~ ***3. Each holder of a license to practice medicine shall submit the report required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1.*** Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action ~~[.]~~ ***pursuant to subsection 8 of NRS 630.306.***

~~[3.]~~ ***4.*** The Board shall:

(a) Collect and maintain reports received pursuant to subsection 1; and

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

~~[4.]~~ ***5.*** A report received pursuant to subsection 1 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~[5.]~~ ***6.*** The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~[6.]~~ ***7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.***

8. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 to 14, inclusive, of this act.

Sec. 11. ***1. An accredited or approved school of nursing, practical nursing or professional nursing may hire as an instructor for clinical practice a person who holds a bachelor's degree in nursing and has at least 5 years of nursing experience in patient care.***

2. As used in this section, "instructor for clinical practice" means a registered nurse whose primary role is educating prelicensure nursing students in a skills laboratory or practice site.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. NRS 632.0126 is hereby amended to read as follows:

632.0126 "Approved school of nursing" means a school of nursing that is approved by the Board as meeting the standards for nursing education established by the Board pursuant to NRS 632.430 to 632.470, inclusive ~~[.]~~ ***, and section 11 of this act.***

Sec. 16. NRS 632.017 is hereby amended to read as follows:

632.017 "Practice of practical nursing" means the performance of selected acts in the care of the ill, injured or infirm under the direction of a registered professional nurse, an advanced practitioner of nursing, a licensed physician, a ~~[licensed]~~ physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** a licensed dentist or a licensed podiatric physician, not requiring the substantial specialized skill, judgment and knowledge required in professional nursing.

Sec. 17. NRS 632.018 is hereby amended to read as follows:

632.018 "Practice of professional nursing" means the performance of any act in the observation, care and counsel of the ill, injured or infirm, in the maintenance of health or prevention of illness of others, in the supervision and teaching of other personnel, in the administration of medications and treatments as prescribed by an advanced practitioner of nursing, a licensed physician, a ~~[licensed]~~ physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** a licensed dentist or a licensed podiatric physician, requiring substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical and social science, but does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

Sec. 18. NRS 632.030 is hereby amended to read as follows:

632.030 1. The Governor shall appoint:

(a) Three registered nurses who are graduates of an accredited school of nursing, are licensed as professional nurses in the State of Nevada and have been actively engaged in nursing for at least 5 years preceding the appointment.

(b) One practical nurse who is a graduate of an accredited school of practical nursing, is licensed as a practical nurse in this State and has been actively engaged in nursing for at least 5 years preceding the appointment.

(c) One nursing assistant who is certified pursuant to the provisions of this chapter.

(d) One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(e) One member who is a representative of the general public. This member must not be:

(1) A licensed practical nurse, a registered nurse, a nursing assistant or an advanced practitioner of nursing; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed practical nurse, a registered nurse, a nursing assistant or an advanced practitioner of nursing.

2. Each member of the Board must be:

(a) A citizen of the United States; and

(b) A resident of the State of Nevada who has resided in this State for not less than 2 years.

3. A representative of the general public may not:

(a) Have a fiduciary obligation to a hospital or other health agency;

(b) Have a material financial interest in the rendering of health services; or

(c) Be employed in the administration of health activities or the performance of health services.

4. The members appointed to the Board pursuant to paragraphs (a) and (b) of subsection 1 must be selected to provide the broadest representation of the various activities, responsibilities and types of service within the practice of nursing and related areas, which may include, without limitation, experience:

(a) In administration.

(b) In education.

(c) As an advanced practitioner of nursing.

(d) In an agency or clinic whose primary purpose is to provide medical assistance to persons of low and moderate incomes.

(e) In a licensed medical facility.

5. Each member of the Board shall serve a term of 4 years. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this ~~[section]~~ ***chapter*** to replace that member for the remainder of the unexpired term.

6. No member of the Board may serve more than two consecutive terms. For the purposes of this subsection, service of 2 or more years in filling an unexpired term constitutes a term.

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 23. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 24 to 35, inclusive, of this act.

Sec. 24. ***1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to a person who:***

(a) Is a graduate of a foreign school which teaches osteopathic medicine;

(b) Teaches, researches or practices osteopathic medicine outside the United States;

(c) Is a recognized expert in osteopathic medicine; and

(d) Intends to teach, research or practice clinical osteopathic medicine at a medical research facility or school of osteopathic medicine in this State.

2. A person who applies for a special license is not required to take or pass a written examination concerning his qualifications to practice osteopathic medicine, but the person must satisfy the requirements for a special license set forth in regulations adopted by the Board.

3. A person who holds a special license issued pursuant to this section may practice osteopathic medicine in this State only in accordance with the terms and restrictions established by the Board.

4. If a person who holds a special license issued pursuant to this section ceases to teach, research or practice clinical osteopathic medicine in this State at the medical research facility or school of osteopathic medicine where he is employed:

(a) The medical research facility or school of osteopathic medicine, as applicable, shall notify the Board; and

(b) Upon receipt of such notification, the special license expires automatically.

5. The Board may renew or modify a special license issued pursuant to this section, unless the special license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a special license to an applicant in accordance with any other provision of this chapter.

Sec. 25. ***1. Except as otherwise provided in NRS 633.315, the Board shall, except for good cause, issue a license by endorsement to a person who has been issued a license to practice osteopathic medicine by the District of Columbia or any state or territory of the United States if:***

(a) At the time the person files his application with the Board, the license is in effect and unrestricted; and

(b) The applicant:

(1) Is currently certified by either a specialty board of the American Board of Medical Specialties or a specialty board of the American Osteopathic Association, and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 5 years;

(3) Has been continuously and actively engaged in the practice of osteopathic medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice osteopathic medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice osteopathic medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 633.311.

2. Any person applying for a license pursuant to this section shall pay in advance to the Board the application and initial license fee specified in this chapter.

3. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such action shall be deemed to be an action of the Board.

Sec. 26. (Deleted by amendment.)

Sec. 27. ***A private nonprofit school of osteopathic medicine that is licensed by the Commission on Postsecondary Education and approved by the American Osteopathic Association's Commission on College Accreditation may, notwithstanding any provision of law to the contrary:***

1. Operate as a corporation or other business organization or association with ownership or control shared by persons licensed pursuant to this chapter and persons not licensed pursuant to this chapter;

2. Operate a clinic in conjunction with the school which is staffed by osteopathic physicians or physicians who are:

(a) Licensed pursuant to this chapter or chapter 630 of NRS, respectively; and

(b) Members of the faculty of the school; and

3. Retain all or a portion of the money generated by a clinic described in subsection 2, including, without limitation, any professional income generated by an osteopathic physician or physician staffing the clinic.

Sec. 28. ***1. A physician assistant may perform such medical services as:***

(a) He is authorized to perform by his supervising osteopathic physician; and

(b) Are within his supervising osteopathic physician's scope of practice.

2. The Board and supervising osteopathic physician shall limit the authority of a physician assistant to prescribe controlled substances to those schedules of controlled substances that the supervising osteopathic physician is authorized to prescribe pursuant to state and federal law.

Sec. 29. ***The Board may issue a license as a physician assistant to an applicant who is qualified under the regulations of the Board to perform medical services under the supervision of a supervising osteopathic physician. The application for a license as a physician assistant must include all information required to complete the application.***

Sec. 30. ***The Board shall adopt regulations regarding the licensure of a physician assistant, including, without limitation:***

1. The educational and other qualifications of applicants.

2. The required academic program for applicants.

3. The procedures for applications for and the issuance of licenses.

4. The tests or examinations of applicants by the Board.

5. The medical services which a physician assistant may perform, except that he may not perform osteopathic manipulative therapy or those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, doctors of Oriental medicine, podiatric physicians, optometrists and hearing aid specialists under chapters 631, 634, 634A, 635, 636 and 637A, respectively, of NRS.

6. The duration, renewal and termination of licenses.

7. The grounds and procedures respecting disciplinary actions against physician assistants.

8. The supervision of medical services of a physician assistant by a supervising osteopathic physician.

Sec. 31. ***1. A physician assistant shall:***

(a) Keep his license available for inspection at his primary place of business; and

(b) When engaged in his professional duties, identify himself as a physician assistant.

2. A physician assistant shall not bill a patient separately from his supervising osteopathic physician.

Sec. 32. ***1. An osteopathic physician may at any time refuse to act as a supervising osteopathic physician for a physician assistant.***

2. A condition, stipulation or provision in a contract or other agreement which:

(a) Requires an osteopathic physician to act as a supervising osteopathic physician for a physician assistant;

(b) Penalizes an osteopathic physician for refusing to act as a supervising osteopathic physician for a physician assistant; or

(c) Limits a supervising osteopathic physician's authority with regard to any protocol, standing order or delegation of authority applicable to a physician assistant supervised by the osteopathic physician,

➥ is against public policy and is void.

Sec. 33. ***An osteopathic physician who does not normally provide care to patients may not be a supervising osteopathic physician.***

Sec. 34. ***1. A supervising osteopathic physician shall provide supervision to his physician assistant continuously whenever the physician assistant is performing his professional duties.***

2. Except as otherwise provided in subsection 3, a supervising osteopathic physician may provide supervision to his physician assistant in person or by telecommunication. When providing supervision by telecommunication, a supervising osteopathic physician may be at a different site than the physician assistant.

3. A supervising osteopathic physician shall provide supervision to his physician assistant in person at all times during the first 30 days that the supervising osteopathic physician supervises the physician assistant. After the first 30 days, the supervising osteopathic physician shall not regularly maintain the physician assistant at a different site than the supervising osteopathic physician. The provisions of this subsection do not apply to a federally qualified health center.

4. Before beginning to supervise a physician assistant, a supervising osteopathic physician must communicate to the physician assistant:

(a) The scope of practice of the physician assistant;

(b) The access to the supervising osteopathic physician that the physician assistant will have; and

(c) Any processes for evaluation that the supervising osteopathic physician will use to evaluate the physician assistant.

5. A supervising osteopathic physician shall not delegate to his physician assistant, and his physician assistant shall not accept, a task that is beyond the physician assistant's capability to complete safely.

6. As used in this section, "federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

Sec. 35. ***1. A physician assistant licensed under the provisions of this chapter who is responding to a need for medical care created by an emergency or disaster, as declared by an applicable governmental entity, may render emergency care that is directly related to the emergency or disaster without the supervision of an osteopathic physician, as required by this chapter. The provisions of this subsection apply only for the duration of the emergency or disaster.***

2. An osteopathic physician who supervises a physician assistant who is rendering emergency care that is directly related to an emergency or disaster, as described in subsection 1, shall not be required to meet the requirements set forth in this chapter for such supervision.

Sec. 36. NRS 633.031 is hereby amended to read as follows:

633.031 ~~["Employing]~~ ***"Supervising*** osteopathic physician" means an osteopathic physician ***who is*** licensed in this State ~~[who employs]~~ ***, is in good standing with the Board*** and supervises ~~[an osteopathic physician's]~~ *a* ***physician*** assistant with Board approval.

Sec. 37. NRS 633.101 is hereby amended to read as follows:

633.101 ***"Physician*** assistant" means a person who is ***a graduate of an academic program*** approved by the Board ***or who, by general education, practical training and experience determined to be satisfactory by the Board, is qualified*** to perform medical services under the supervision of ***a supervising*** osteopathic physician ***and who has been issued a license by the Board.***

Sec. 38. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee ***of the practice of osteopathic medicine*** to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body.

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses ***to practice osteopathic medicine*** issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses ***to practice osteopathic medicine*** issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed ***to practice osteopathic medicine*** pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 39. NRS 633.151 is hereby amended to read as follows:

633.151 The purpose of licensing osteopathic physicians and ~~[osteopathic physicians']~~ ***physician*** assistants is to protect the public health and safety and the general welfare of the people of this State. Any license issued pursuant to this chapter is a revocable privilege and a holder of such a license does not acquire thereby any vested right.

Sec. 39.5. NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence; ~~[and]~~

(b) Information reported to the Board during the previous biennium pursuant to NRS ~~[633.524,]~~ 633.526, 633.527, subsections 2 and 3 of NRS 633.533 and NRS 690B.250 and 690B.260 ~~[.]~~ ***; and***

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and

types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

Sec. 40. NRS 633.301 is hereby amended to read as follows:

633.301 1. The Board shall keep a record of its proceedings relating to licensing and disciplinary actions. Except as otherwise provided in this section, the record must be open to public inspection at all reasonable times and contain the name, known place of business and residence, and the date and number of the license of every osteopathic physician ***and every physician assistant*** licensed under this chapter.

2. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

3. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 41. NRS 633.321 is hereby amended to read as follows:

633.321 1. Every applicant for a license shall:

(a) File an application with the Board in the manner prescribed by regulations of the Board;

(b) Submit verified proof satisfactory to the Board that he meets ~~[the]~~ ***any*** age, citizenship and educational requirements prescribed by this chapter; and

(c) Pay in advance to the Board the application and initial license fee specified in this chapter.

2. An application filed with the Board pursuant to subsection 1 must include all information required to complete the application.

3. The Board may hold hearings and conduct investigations into any matter related to the application and, in addition to the proofs required by subsection 1, may take such further evidence and require such other documents or proof of qualifications as it deems proper.

4. The Board may reject an application if it appears that any credential submitted is false.

Sec. 42. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure ~~[,]~~ ***to practice osteopathic medicine,*** an applicant shall cause to be submitted to the Board a certificate of completion of progressive postgraduate training from the residency program where the applicant received training.

Sec. 43. NRS 633.328 is hereby amended to read as follows:

633.328 In addition to any other requirements set forth in this chapter, each applicant for a license , ~~[to practice osteopathic medicine,]~~ except a temporary or special license, ~~[or each osteopathic physician's assistant for whom an application to employ an osteopathic physician's assistant is submitted to the Board]~~ must submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

Sec. 44. NRS 633.371 is hereby amended to read as follows:

633.371 Every license ***to practice osteopathic medicine*** must be displayed in the office or place of business or employment of its holder.

Sec. 45. NRS 633.391 is hereby amended to read as follows:

633.391 1. The Board may issue a temporary license ***to practice osteopathic medicine in order*** to authorize a person who is qualified to practice osteopathic medicine in this State to serve as a substitute for ~~[an]~~ *:*

(a) A physician licensed pursuant to chapter 630 of NRS; or

(b) An osteopathic physician ***licensed pursuant to chapter 633 of NRS,***

➥ who is absent from his practice.

2. Each applicant for such a license shall pay the temporary license fee specified in this chapter.

3. A temporary license ***to practice osteopathic medicine*** is valid for not more than 6 months after issuance and is not renewable.

Sec. 46. NRS 633.401 is hereby amended to read as follows:

633.401 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license ~~[:]~~ ***to practice osteopathic medicine:***

(a) To authorize a person who is licensed to practice osteopathic medicine in an adjoining state to come into Nevada to care for or assist in the treatment of his patients in association with an osteopathic physician in this State who has primary care of the patients.

(b) To a resident while he is enrolled in a postgraduate training program required pursuant to the provisions of paragraph (c) of subsection 4 of NRS 633.311.

(c) For a specified period and for specified purposes to a person who is licensed to practice osteopathic medicine in another jurisdiction.

2. A special license issued under this section may be renewed by the Board upon application of the licensee.

3. Every person who applies for or renews a special license under this section shall pay respectively the special license fee or special license renewal fee specified in this chapter.

Sec. 47. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license ***to practice osteopathic medicine*** to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine and have completed a hospital internship.

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 48. NRS 633.421 is hereby amended to read as follows:

633.421 Each license ***to practice osteopathic medicine*** issued by the Board:

1. Shall bear a seal adopted by the Board and the signatures of its President and Secretary; and

2. Authorizes the holder to practice osteopathic medicine so long as it is kept in force by appropriate renewal and is not revoked or suspended.

Sec. 49. NRS 633.466 is hereby amended to read as follows:

633.466 1. ~~[An osteopathic physician's]~~ ***A physician*** assistant may ~~[, under his certificate,]~~ be supervised by a physician licensed to practice medicine in this State ***pursuant to chapter 630 of NRS*** in place of his ~~[employing]~~ ***supervising*** osteopathic physician if:

(a) The ~~[osteopathic physician's]~~ ***physician*** assistant works in a geographical area where he can be conveniently supervised only by ***such*** a physician; ***and***

(b) The ~~[osteopathic physician's assistant remains in the employ of his employing osteopathic physician;~~

~~(c) The employing]~~ ***supervising*** osteopathic physician and the physician ***licensed pursuant to chapter 630 of NRS*** agree to the arrangement . ~~[; and]~~

~~[(d) The Board of Osteopathic Medicine and the Board of Medical Examiners approve it.]~~

2. ~~[For the purposes of chapter 630 of NRS, an osteopathic physician's]~~ ***A physician*** assistant so supervised is not a ~~[physician's]~~ ***physician*** assistant ***for the purposes of chapter 630 of NRS*** solely because of that supervision . ~~[and continues to practice osteopathic medicine.]~~

3. The ***State*** Board ***of Osteopathic Medicine*** shall adopt jointly with the Board of Medical Examiners regulations necessary to administer the provisions of this section.

Sec. 50. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection 4 and ~~[in]~~ NRS 633.491, every holder of a license ***to practice osteopathic medicine*** issued under this chapter, except a temporary or a special license, may renew his license on or before January 1 of each calendar year after its issuance by:

(a) Applying for renewal on forms provided by the Board;

(b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal he has attended courses or programs of continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee ***of the practice of osteopathic medicine*** of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license ~~[.]~~ ***to practice osteopathic medicine.*** Upon a request from the Board, an applicant for renewal of a license ***to practice osteopathic medicine*** shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal he attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 51. NRS 633.481 is hereby amended to read as follows:

633.481 1. Except as otherwise provided in subsection 2, if a licensee ***of the practice of osteopathic medicine*** fails to comply with the requirements of NRS 633.471 within 30 days after the renewal date, the Board shall give 30 days' notice of failure to renew and of revocation of *the* license by certified mail to the licensee at his last address registered with the Board. If the license is not renewed before the expiration of the 30 days' notice, the license is automatically revoked without any further notice or a hearing and the Board shall file a copy of the notice with the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

2. A licensee ***of the practice of osteopathic medicine*** who fails to meet the continuing education requirements for license renewal may apply to the Board for a waiver of the requirements. The Board may grant a waiver for that year only if it finds that the failure is due to the licensee's disability, military service or absence from the United States, or to circumstances beyond the control of the licensee which are deemed by the Board to excuse the failure.

3. A person whose license is revoked under this section may apply to the Board for restoration of his license upon:

(a) Payment of all past due renewal fees and the late payment fee specified in this chapter;

(b) Producing verified evidence satisfactory to the Board of completion of the total number of hours of continuing education required for the year preceding the renewal date and for each year succeeding the date of revocation;

(c) Stating under oath in writing that he has not withheld information from the Board which if disclosed would furnish grounds for disciplinary action under this chapter; and

(d) Submitting all information required to complete the restoration of his license.

Sec. 52. NRS 633.491 is hereby amended to read as follows:

633.491 1. A licensee ***of the practice of osteopathic medicine*** who retires from ~~[the practice of osteopathic medicine]~~ ***such practice*** need not annually renew his license after he files with the Board an affidavit stating the date on which he retired from practice and such other facts to verify his retirement as the Board deems necessary.

2. A retired licensee ***of the practice of osteopathic medicine*** who desires to return to practice may apply to renew his license by paying all back annual license renewal fees from the date of retirement and submitting verified evidence satisfactory to the Board that he has attended continuing education courses or programs approved by the Board which total:

(a) Twenty-five hours if he has been retired 1 year or less.

(b) Fifty hours within 12 months of the date of the application if he has been retired for more than 1 year.

3. A licensee ***of the practice of osteopathic medicine*** who wishes to have his license placed on inactive status must provide the Board with an affidavit stating the date on which he will cease the practice of osteopathic medicine in Nevada and any other facts that the Board may require. The Board shall place the license of the licensee on inactive status upon receipt of:

(a) The affidavit required pursuant to this subsection; and

(b) Payment of the inactive license fee prescribed by NRS 633.501.

4. A licensee ***of the practice of osteopathic medicine*** whose license has been placed on inactive status:

(a) Need not annually renew his license.

(b) Shall annually pay the inactive license fee prescribed by NRS 633.501.

(c) Shall not engage in the practice of osteopathic medicine in this State.

5. A licensee ***of the practice of osteopathic medicine*** whose license is on inactive status and who wishes to renew his license to practice osteopathic medicine must:

(a) Provide to the Board verified evidence satisfactory to the Board of completion of the total number of hours of continuing medical education required for:

(1) The year preceding the date of the application for renewal of the license to practice osteopathic medicine; and

(2) Each year succeeding the date the license was placed on inactive status.

(b) Provide to the Board an affidavit stating that the applicant has not withheld from the Board any information which would provide grounds for disciplinary action pursuant to this chapter.

(c) Comply with all other requirements for renewal.

Sec. 53. NRS 633.501 is hereby amended to read as follows:

633.501 The Board shall charge and collect fees not to exceed the following amounts:

1. Application and initial license fee ***for an osteopathic physician*** ... $800
2. Annual license renewal fee ***for an osteopathic physician*** 500
3. Temporary license fee 500
4. Special license fee 200
5. Special license renewal fee 200
6. Reexamination fee 200
7. Late payment fee 300
8. ~~[For a certificate as an osteopathic physician's]~~ ***Application and initial license fee for a physician*** assistant ..... ~~[500]~~ ***400***
9. ~~[Renewal of a certificate as an osteopathic physician's]~~ ***Annual license renewal fee for a physician*** assistant ..... ~~[300]~~ ***400***
10. ~~[For an application to employ an osteopathic physician's assistant ..... $500~~

~~11.]~~ Inactive license fee $200

Sec. 54. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license ***to practice osteopathic medicine*** issued pursuant to this chapter to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report ~~[~~:

~~(a) Stating]~~ ***stating*** the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

~~[(1)]~~ ***(a)*** At a medical facility as that term is defined in NRS 449.0151; or

~~[(2)]~~ ***(b)*** Outside of this State . ~~[; and~~

~~(b) Reporting]~~

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any ~~[such]~~ surgery ~~[~~.

~~2.]~~ ***described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the Administrator of the Health Division of the Department of Health and Human Services for reporting information pursuant to NRS 439.835.***

3. Each holder of a license to practice osteopathic medicine shall submit the report required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action ~~[.]~~ ***pursuant to NRS 633.511.***

~~[3.]~~ ***4.*** The Board shall:

(a) Collect and maintain reports received pursuant to subsection 1; and

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

~~[4.]~~ ***5.*** A report received pursuant to subsection 1 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~[5.]~~ ***6.*** The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~[6.]~~ ***7. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose***

against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

8. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 55. NRS 633.533 is hereby amended to read as follows:

633.533 1. Any person, medical school or medical facility that becomes aware that a person practicing osteopathic medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

2. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in an osteopathic physician's privileges to practice osteopathic medicine while the osteopathic physician is under investigation and the outcome of any disciplinary action taken by that facility or society against the osteopathic physician concerning the care of a patient or the competency of the osteopathic physician within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may

impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

3. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that an osteopathic physician or ~~[osteopathic physician's]~~ ***physician*** assistant:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

4. On or before January 15 of each year, the clerk of every court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding osteopathic physicians pursuant to paragraph (e) of subsection 3.

Sec. 56. NRS 633.711 is hereby amended to read as follows:

633.711 1. The Board through its President or Secretary or the Attorney General may maintain in any court of competent jurisdiction a suit for an injunction against any person practicing osteopathic medicine without a license ***to practice osteopathic medicine*** valid under this chapter.

2. Such an injunction:

(a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

(b) Shall not relieve such person from criminal prosecution for practicing without ***such*** a license.

Sec. 57. NRS 633.721 is hereby amended to read as follows:

633.721 In a criminal complaint charging any person with practicing osteopathic medicine without a license ~~[,]~~ ***to practice osteopathic medicine,*** it is sufficient to charge that he did, upon a certain day, and in a certain county of this State, engage in the practice of osteopathic medicine without having a valid license to do so, without averring any further or more particular facts concerning the violation.

Sec. 58. NRS 633.741 is hereby amended to read as follows:

633.741 A person who:

1. Except as otherwise provided in NRS 629.091, practices osteopathic medicine:

(a) Without a license ***to practice osteopathic medicine*** valid under this chapter; or

(b) Beyond the limitations ordered upon his practice by the Board or the court;

2. Presents as his own the diploma, license or credentials of another;

3. Gives either false or forged evidence of any kind to the Board or any of its members in connection with an application for a license *;* ~~[or an application to employ an osteopathic physician's assistant;]~~

4. Files for record the license issued to another, falsely claiming himself to be the person named in the license, or falsely claiming himself to be the person entitled to the license;

5. Practices osteopathic medicine under a false or assumed name or falsely personates another licensee of a like or different name;

6. Holds himself out as ~~[an osteopathic physician's]~~ ***a physician*** assistant or who uses any other term indicating or implying that he is ~~[an osteopathic physician's]~~ ***a physician*** assistant, unless he has been ~~[approved]~~ ***licensed*** by the Board ~~[,]~~ as provided in this chapter; or

7. ~~[Employs]~~ ***Supervises*** a person as ~~[an osteopathic physician's]~~ ***a physician*** assistant before such ~~[employment is approved]~~ ***person is licensed*** as provided in this chapter,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. (Deleted by amendment.)

Sec. 63. Chapter 637 of NRS is hereby amended by adding thereto the provisions set forth as sections 64 and 65 of this act.

Sec. 64. ***1. The Board shall issue a special license as a dispensing optician to an applicant who:***

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(d) Is a graduate of an accredited high school or its equivalent;

(e) Has passed the National Opticianry Competency Examination of the American Board of Opticianry;

(f) Is currently certified by the American Board of Opticianry;

(g) Has passed the Contact Lens Registry Examination of the National Contact Lens Examiners;

(h) Is currently certified by the National Contact Lens Examiners;

(i) Has passed an examination, if one exists, which is based solely on the provisions of this chapter and chapter 637 of NAC and is administered by the Board; and

(j) Has either:

(1) An active license as a dispensing optician issued by the District of Columbia or any state or territory of the United States; or

(2) Not less than 5 years of experience as a dispensing optician.

2. A person practicing ophthalmic dispensing pursuant to a special license as provided in this section is subject to the provisions of this chapter in the same manner as a person practicing ophthalmic dispensing pursuant to a license issued pursuant to NRS 637.120, including, without limitation, the provisions of this chapter governing the renewal, inactivity or reactivation of a license.

Sec. 65. (Deleted by amendment.)

Sec. 66. (Deleted by amendment.)

Sec. 67. (Deleted by amendment.)

Sec. 68. (Deleted by amendment.)

Sec. 69. NRS 639.0125 is hereby amended to read as follows:

639.0125 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his profession in this State;

2. A hospital, pharmacy or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this State;

3. An advanced practitioner of nursing who has been authorized to prescribe controlled substances, poisons, dangerous drugs and devices;

4. A physician assistant who:

(a) Holds a license issued by the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician as required by chapter 630 of NRS;

5. ~~[An osteopathic physician's]~~ ***A physician*** assistant who:

(a) Holds a ~~[certificate]~~ ***license*** issued by the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of an osteopathic physician as required by chapter 633 of NRS; or

6. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer therapeutic pharmaceutical agents pursuant to NRS 636.288, when he prescribes or administers therapeutic pharmaceutical agents within the scope of his certification.

Sec. 70. NRS 639.030 is hereby amended to read as follows:

639.030 1. The Governor shall appoint:

(a) Six members who are registered pharmacists in the State of Nevada, are actively engaged in the practice of pharmacy in the State of Nevada and have had at least 5 years' experience as registered pharmacists preceding the appointment.

(b) One member who is a representative of the general public and is not related to a pharmacist registered in the State of Nevada by consanguinity or affinity within the third degree.

2. Appointments of registered pharmacists must be representative of the practice of pharmacy.

3. Within 30 days after his appointment, each member of the Board shall take and subscribe an oath to discharge faithfully and impartially the duties prescribed by this chapter.

4. After the initial terms, the members of the Board must be appointed to terms of 3 years. A person may not serve as a member of the Board for more than three consecutive terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this ~~[section]~~ ***chapter*** to replace that member for the remainder of the unexpired term.

5. The Governor shall remove from the Board any member, after a hearing, for neglect of duty or other just cause.

Sec. 71. NRS 639.1373 is hereby amended to read as follows:

639.1373 1. A physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** ~~[or an osteopathic physician's assistant]~~ may, if authorized by the Board, possess, administer, prescribe or dispense controlled substances, or possess, administer, prescribe or dispense poisons, dangerous drugs or devices in or out of the presence of his supervising physician only to the extent and subject to the limitations specified in the registration certificate issued to the physician assistant ~~[or osteopathic physician's assistant, as appropriate,]~~ by the Board pursuant to this section.

2. Each physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** ~~[and osteopathic physician's assistant]~~ who is authorized by his physician assistant's license issued by the Board of Medical Examiners or ~~[certificate issued]~~ by the State Board of Osteopathic Medicine ***, respectively,*** to possess, administer, prescribe or dispense controlled substances, or to possess, administer, prescribe or dispense poisons, dangerous drugs or devices must apply for and obtain a registration certificate from the Board, pay a fee to be set by regulations adopted by the Board and pass an examination administered by the Board on the law relating to pharmacy before he can possess, administer, prescribe or dispense controlled substances, or possess, administer, prescribe or dispense poisons, dangerous drugs or devices.

3. The Board shall consider each application separately and may, even though the physician assistant's license issued by the Board of Medical Examiners or ~~[the osteopathic physician's assistant's certificate issued]~~ by the State Board of Osteopathic Medicine authorizes the physician assistant ~~[or osteopathic physician's assistant, as appropriate,]~~ to possess, administer, prescribe or dispense controlled substances, or to possess, administer, prescribe or dispense poisons, dangerous drugs and devices:

(a) Refuse to issue a registration certificate;

(b) Issue a registration certificate limiting the authority of the physician assistant ~~[or osteopathic physician's assistant, as appropriate,]~~ to possess, administer, prescribe or dispense controlled substances, or to possess, administer, prescribe or dispense poisons, dangerous drugs or devices, the

area in which the physician assistant ~~[or osteopathic physician's assistant]~~ may possess controlled substances, poisons, dangerous drugs and devices, or the kind and amount of controlled substances, poisons, dangerous drugs and devices; or

(c) Issue a registration certificate imposing other limitations or restrictions which the Board feels are necessary and required to protect the health, safety and welfare of the public.

4. If the registration of the physician assistant ~~[or osteopathic physician's assistant]~~ ***licensed pursuant to chapter 630 or 633 of NRS*** is suspended or revoked, the physician's controlled substance registration may also be suspended or revoked.

5. The Board shall adopt regulations controlling the maximum amount to be administered, possessed and dispensed, and the storage, security, recordkeeping and transportation of controlled substances and the maximum amount to be administered, possessed, prescribed and dispensed and the storage, security, recordkeeping and transportation of poisons, dangerous drugs and devices by physician assistants ~~[and osteopathic physicians' assistants.]~~ ***licensed pursuant to chapter 630 or 633 of NRS.*** In the adoption of those regulations, the Board shall consider, but is not limited to, the following:

(a) The area in which the physician assistant ~~[or osteopathic physician's assistant]~~ is to operate;

(b) The population of that area;

(c) The experience and training of the physician assistant *;* ~~[or osteopathic physician's assistant;]~~

(d) The distance to the nearest hospital and physician; and

(e) The effect on the health, safety and welfare of the public.

6. For the purposes of this section, the term "supervising physician" includes ~~[an employing]~~ ***a supervising*** osteopathic physician as defined in chapter 633 of NRS.

Sec. 72. Chapter 640 of NRS is hereby amended by adding thereto the provisions set forth as sections 73 and 74 of this act.

Sec. 73. (Deleted by amendment.)

Sec. 74. ***The Board shall elect a Chairman and other officers from among its members.***

Sec. 75. (Deleted by amendment.)

Sec. 76. NRS 640A.080 is hereby amended to read as follows:

640A.080 1. The Board of Occupational Therapy, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) One member who is a representative of the general public. This member must not be:

(1) An occupational therapist or an occupational therapy assistant; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of an occupational therapist or an occupational therapy assistant.

(b) One member who is an occupational therapist or occupational therapy assistant.

(c) Three members who are occupational therapists.

3. Each member of the Board must be a resident of Nevada. An occupational therapist or occupational therapy assistant appointed to the Board must:

(a) Have practiced, taught or conducted research in occupational therapy for the 5 years immediately preceding his appointment; and

(b) Except for the initial members, hold a license issued pursuant to this chapter.

4. No member of the Board may serve more than two consecutive terms.

5. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this ~~[section]~~ ***chapter*** to replace that member for the remainder of the unexpired term.

Sec. 77. (Deleted by amendment.)

Sec. 78. (Deleted by amendment.)

Sec. 79. NRS 640C.150 is hereby amended to read as follows:

640C.150 1. The Board of Massage Therapists is hereby created. The Board consists of seven members appointed pursuant to this ~~[section]~~ ***chapter*** and one nonvoting advisory member appointed pursuant to NRS 640C.160.

2. The Governor shall appoint to the Board seven members as follows:

(a) Six members who:

(1) Are licensed to practice massage therapy in this State; and

(2) Have engaged in the practice of massage therapy for the 2 years immediately preceding their appointment.

➥ Of the six members appointed pursuant to this paragraph, three members must be residents of Clark County, two members must be residents of Washoe County and one member must be a resident of a county other than Clark County or Washoe County.

(b) One member who is a member of the general public. This member must not be:

(1) A massage therapist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a massage therapist.

3. ~~[The Governor may, in making his appointments to the Board pursuant to paragraph (a) of subsection 2, consider for appointment to the Board a person recommended to him by any person or group.~~

~~4.]~~ The members who are appointed to the Board pursuant to paragraph (a) of subsection 2 must continue to practice massage therapy in this State while they are members of the Board.

~~[5.]~~ *4.* After the initial terms, the term of each member of the Board is 4 years. A member may continue in office until the appointment of a successor.

~~[6.]~~ *5.* A member of the Board may not serve more than two consecutive terms. A former member of the Board is eligible for reappointment to the

Board if that person has not served on the Board during the 4 years immediately preceding the reappointment.

~~[7.]~~ ***6.*** A vacancy must be filled by appointment for the unexpired term in the same manner as the original appointment.

~~[8.]~~ ***7.*** The Governor may remove any member of the Board for incompetence, neglect of duty, moral turpitude or misfeasance, malfeasance or nonfeasance in office.

Sec. 80. (Deleted by amendment.)

Sec. 81. (Deleted by amendment.)

Sec. 82. (Deleted by amendment.)

Sec. 83. (Deleted by amendment.)

Sec. 84. NRS 652.210 is hereby amended to read as follows:

652.210 No person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a ~~[licensed]~~ physician assistant ~~[, a certified osteopathic physician's assistant,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens, except that technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 85. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 of NRS,*** a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, ~~[an osteopathic physician's assistant,]~~ ***a physician assistant licensed pursuant to chapter 633 of NRS,*** a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's

assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) of this subsection does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) of this subsection does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state

prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 86. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney and the Aging Services Division of the Department of Health and Human Services his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 87. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner,

who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 88. NRS 244.1605 is hereby amended to read as follows:

244.1605 The boards of county commissioners may:

1. Establish, equip and maintain limited medical facilities in the outlying areas of their respective counties to provide outpatient care and emergency treatment to the residents of and those falling sick or being injured or maimed in those areas.

2. Provide a full-time or part-time staff for the facilities which may include a physician, a ~~[licensed]~~ physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** a registered nurse or a licensed practical nurse, a certified emergency medical technician and such other personnel as the board deems necessary or appropriate to ensure adequate staffing commensurate with the needs of the area in which the facility is located.

3. Fix the charges for the medical and nursing care and medicine furnished by the facility to those who are able to pay for them, and to provide that care and medicine free of charge to those persons who qualify as medical indigents under the county's criteria of eligibility for medical care.

4. Purchase, equip and maintain, either in connection with a limited medical facility as authorized in this section or independent therefrom, ambulances and ambulance services for the benefit of the residents of and those falling sick or being injured or maimed in the outlying areas.

Sec. 89. NRS 244.3821 is hereby amended to read as follows:

244.3821 1. In addition to the powers elsewhere conferred upon all counties, except as otherwise provided in subsection 2, any county may establish a medical scholarship program to induce students in the medical professions to return to the county for practice.

2. Any county whose population is 100,000 or more may only establish a medical scholarship program to induce students in the medical professions to return to the less populous rural communities of the county for practice.

3. Students in the medical professions for the purposes of NRS 244.382 to 244.3823, inclusive, include persons studying to be physician assistants ~~[.]~~ ***licensed pursuant to chapter 630 or 633 of NRS.***

4. The board of county commissioners of a county that has established a medical scholarship program may appropriate money from the general fund of the county for medical scholarship funds and may accept private contributions to augment the scholarship funds.

Sec. 90. NRS 397.0617 is hereby amended to read as follows:

397.0617 1. The provisions of this section apply only to support fees received by a student on or after July 1, 1997.

2. The three Nevada State Commissioners, acting jointly, may require a student who is certified to study to practice in a profession which could benefit a medically underserved area of this State, as that term is defined by the Officer of Rural Health of the University of Nevada School of Medicine, to practice in such an area or to practice in an area designated by the Secretary of Health and Human Services:

(a) Pursuant to 42 U.S.C. § 254c, as containing a medically underserved population; or

(b) Pursuant to 42 U.S.C. § 254e, as a health professional shortage area,

➥ as a condition to receiving a support fee.

3. If a person agrees to practice in a medically underserved area of this State pursuant to subsection 2 for at least 2 years, the three Nevada State Commissioners, acting jointly, may forgive the portion of the support fee designated as the loan of the person.

4. If a person returns to this State but does not practice in a medically underserved area of this State pursuant to subsection 2 for at least 2 years, the three Nevada State Commissioners, acting jointly, shall assess a default charge in an amount not less than three times the portion of the support fee designated as the loan of the person, plus interest.

5. As used in this section, a "profession which could benefit a medically underserved area of this State" includes, without limitation, dentistry, physical therapy, pharmacy and practicing as a physician assistant ~~[.]~~ ***licensed pursuant to chapter 630 or 633 of NRS.***

Sec. 91. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the

abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the report and submit to an agency which provides child welfare services his written findings. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 92. NRS 433A.165 is hereby amended to read as follows:

433A.165 1. Before an allegedly mentally ill person may be transported to a public or private mental health facility pursuant to NRS 433A.160, the person must:

(a) First be examined by a licensed physician or physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or an advanced practitioner of nursing to determine whether the person has a medical problem, other than a psychiatric problem, which requires immediate treatment; and

(b) If such treatment is required, be admitted for the appropriate medical care:

(1) To a hospital if the person is in need of emergency services or care; or

(2) To another appropriate medical facility if the person is not in need of emergency services or care.

2. The examination and any transfer of the person from a facility when the person has an emergency medical condition and has not been stabilized must be conducted in compliance with:

(a) The requirements of 42 U.S.C. § 1395dd and any regulations adopted pursuant thereto, and must involve a person authorized pursuant to federal law to conduct such an examination or certify such a transfer; and

(b) The provisions of NRS 439B.410.

3. The cost of the examination must be paid by the county in which the allegedly mentally ill person resides if services are provided at a county hospital located in that county or a hospital or other medical facility designated by that county, unless the cost is voluntarily paid by the allegedly mentally ill person or, on his behalf, by his insurer or by a state or federal program of medical assistance.

4. The county may recover all or any part of the expenses paid by it, in a civil action against:

(a) The person whose expenses were paid;

(b) The estate of that person; or

(c) A responsible relative as prescribed in NRS 433A.610, to the extent that financial ability is found to exist.

5. The cost of treatment, including hospitalization, for an indigent must be paid pursuant to NRS 428.010 by the county in which the allegedly mentally ill person resides.

6. The Division shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that:

(a) Define "emergency services or care" as that term is used in this section; and

(b) Prescribe the type of medical facility that a person may be admitted to pursuant to subparagraph (2) of paragraph (b) of subsection 1.

7. As used in this section, "medical facility" has the meaning ascribed to it in NRS 449.0151.

Sec. 93. NRS 440.415 is hereby amended to read as follows:

440.415 1. A physician who anticipates the death of a patient because of an illness, infirmity or disease may authorize a specific registered nurse or physician assistant or the registered nurses or physician assistants employed by a medical facility or program for hospice care to make a pronouncement of death if they attend the death of the patient.

2. Such an authorization is valid for 120 days. Except as otherwise provided in subsection 3, the authorization must:

(a) Be a written order entered on the chart of the patient;

(b) State the name of the registered nurse or nurses or physician assistant or assistants authorized to make the pronouncement of death; and

(c) Be signed and dated by the physician.

3. If the patient is in a medical facility or under the care of a program for hospice care, the physician may authorize the registered nurses or physician assistants employed by the facility or program to make pronouncements of death without specifying the name of each nurse or physician assistant, as applicable.

4. If a pronouncement of death is made by a registered nurse or physician assistant, the physician who authorized that action shall sign the medical certificate of death within 24 hours after being presented with the certificate.

5. If a patient in a medical facility is pronounced dead by a registered nurse or physician assistant employed by the facility, the registered nurse or physician assistant may release the body of the patient to a licensed funeral director pending the completion of the medical certificate of death by the attending physician if the physician or the medical director or chief of the medical staff of the facility has authorized the release in writing.

6. The Board may adopt regulations concerning the authorization of a registered nurse or physician assistant to make pronouncements of death.

7. As used in this section:

(a) "Medical facility" means:

(1) A facility for skilled nursing as defined in NRS 449.0039;

(2) A facility for hospice care as defined in NRS 449.0033;

(3) A hospital as defined in NRS 449.012;

(4) An agency to provide nursing in the home as defined in NRS 449.0015; or

(5) A facility for intermediate care as defined in NRS 449.0038.

(b) "Physician assistant" means a person who holds a license as a physician assistant pursuant to chapter 630 ***or 633*** of NRS . ~~[or a certificate as an osteopathic physician's assistant pursuant to chapter 633 of NRS.]~~

(c) "Program for hospice care" means a program for hospice care licensed pursuant to chapter 449 of NRS.

(d) "Pronouncement of death" means a declaration of the time and date when the cessation of the cardiovascular and respiratory functions of a patient occurs as recorded in the patient's medical record by the attending provider of health care in accordance with the provisions of this chapter.

Sec. 94. NRS 441A.110 is hereby amended to read as follows:

441A.110 "Provider of health care" means a physician, nurse ~~[, physician assistant]~~ or veterinarian licensed in accordance with state law ~~[.]~~ ***or a physician assistant licensed pursuant to chapter 630 or 633 of NRS.***

Sec. 95. NRS 441A.540 is hereby amended to read as follows:

441A.540 1. If a person infected with or exposed to a communicable disease is voluntarily isolated or quarantined in a public or private medical facility, the facility shall not change the status of the person to an emergency isolation or quarantine unless, before the change in status is made:

(a) The facility provides:

(1) An application to a health authority for an emergency isolation or quarantine pursuant to NRS 441A.560; and

(2) The certificate of a health authority, physician, ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or registered nurse to a health authority pursuant to NRS 441A.570; or

(b) The facility receives an order for isolation or quarantine issued by a health authority.

2. A person whose status is changed to an emergency isolation or quarantine pursuant to subsection 1:

(a) Must not be detained in excess of 48 hours after the change in status is made, unless within that period a written petition is filed by a health authority with the clerk of the district court pursuant to NRS 441A.600; and

(b) May, immediately after his status is changed, seek an injunction or other appropriate process in district court challenging his detention.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

4. Nothing in this section limits the actions that a public or private medical facility may take to prevent or limit the transmission of communicable diseases within the medical facility, including, without limitation, practices for the control of infections.

Sec. 96. NRS 441A.560 is hereby amended to read as follows:

441A.560 1. An application to a health authority for an order of emergency isolation or quarantine of a person or a group of persons alleged to have been infected with or exposed to a communicable disease may only be made by another health authority, a physician, a ~~[licensed]~~ physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** a registered nurse or a medical facility by submitting the certificate required by NRS 441A.570. Within its jurisdiction, upon application or on its own, subject to the provisions of NRS 441A.500 to 441A.720, inclusive, a health authority may:

(a) Pursuant to its own order and without a warrant:

(1) Take a person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease into custody in any safe location under emergency isolation or quarantine for testing, examination, observation and the provision of or arrangement for the provision of consensual medical treatment; and

(2) Transport the person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose, or arrange for the person or group of persons to be transported for that purpose by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority; or

(III) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➥ only if the health authority acting in good faith has, based upon personal observation, its own epidemiological investigation or an epidemiological investigation by another health authority, a physician, a ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or a registered nurse as stated in a certificate submitted pursuant to NRS 441A.570, if such a certificate was submitted, of the person or group of persons alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of members of the public who have not been infected with or exposed to the communicable disease.

(b) Petition a district court for an emergency order requiring:

(1) Any health authority or peace officer to take a person or group of persons alleged to have been infected with or exposed to a communicable disease into custody to allow the health authority to investigate, file and prosecute a petition for the involuntary court-ordered isolation or quarantine of the person or group of persons alleged to have been infected with or exposed to a communicable disease in the manner set forth in NRS 441A.500 to 441A.720, inclusive; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport, in accordance with such court order, the person or group of persons alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose.

2. The district court may issue an emergency order for isolation or quarantine pursuant to paragraph (b) of subsection 1:

(a) Only for the time deemed necessary by the court to allow a health authority to investigate, file and prosecute each petition for involuntary court-ordered isolation or quarantine pursuant to NRS 441A.500 to 441A.720, inclusive; and

(b) Only if it is satisfied that there is probable cause to believe that the person or group of persons alleged to have been infected with or exposed to a communicable disease has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of the public.

Sec. 97. NRS 441A.570 is hereby amended to read as follows:

441A.570 A health authority shall not accept an application for an emergency isolation or quarantine under NRS 441A.560 unless that application is accompanied by a certificate of another health authority or a physician, ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or registered nurse stating that he has examined the person or group of persons alleged to have been infected with or exposed to a communicable disease or has investigated the circumstances of potential infection or exposure regarding the person or group of persons alleged to have been infected with or exposed to a communicable disease and that he has concluded that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of the public. The certificate required by this section may be obtained from a physician, ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or registered nurse who is employed by the public or private medical facility in which the person or group of persons is admitted or detained and from the facility from which the application is made.

Sec. 98. NRS 441A.580 is hereby amended to read as follows:

441A.580 1. No application or certificate authorized under NRS 441A.560 or 441A.570 may be considered if made by a person on behalf of a

medical facility or by a health authority, physician, ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or registered nurse who is related by blood or marriage to the person alleged to have been infected with or exposed to a communicable disease, or who is financially interested, in a manner that would be prohibited pursuant to NRS 439B.425 if the application or certificate were deemed a referral, in a medical facility in which the person alleged to have been infected with or exposed to a communicable disease is to be detained.

2. No application or certificate of any health authority or person authorized under NRS 441A.560 or 441A.570 may be considered unless it is based on personal observation, examination or epidemiological investigation of the person or group of persons alleged to have been infected with or exposed to a communicable disease made by such health authority or person not more than 72 hours before the making of the application or certificate. The certificate must set forth in detail the facts and reasons on which the health authority or person who submitted the certificate pursuant to NRS 441A.570 based his opinions and conclusions.

Sec. 99. NRS 441A.600 is hereby amended to read as follows:

441A.600 A proceeding for an involuntary court-ordered isolation or quarantine of any person in this State may be commenced by a health authority filing a petition with the clerk of the district court of the county where the person is to be isolated or quarantined. The petition may be pled in the alternative for both isolation and quarantine, if required by developing or changing facts, and must be accompanied:

1. By a certificate of a health authority or a physician, a ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or a registered nurse stating that he has examined the person alleged to have been infected with or exposed to a communicable disease or has investigated the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to a communicable disease and has concluded that the person has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person is likely to be an immediate threat to the health of the public; or

2. By a sworn written statement by the health authority that:

(a) The health authority has, based upon its personal observation of the person alleged to have been infected with or exposed to a communicable disease, or its epidemiological investigation of the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person has been infected with or exposed to a communicable disease and, that because of the risks of that disease, the person is likely to be an immediate threat to the health of the public; and

(b) The person alleged to have been infected with or exposed to a communicable disease has refused to submit to voluntary isolation or

quarantine, examination, testing, or treatment known to control or resolve the transmission of the communicable disease.

Sec. 100. NRS 441A.610 is hereby amended to read as follows:

441A.610 In addition to the requirements of NRS 441A.600, a petition filed pursuant to that section with the clerk of the district court to commence proceedings for involuntary court-ordered isolation or quarantine of a person pursuant to NRS 441A.540 or 441A.550 must include a certified copy of:

1. If an application for an order of emergency isolation or quarantine of the person was made pursuant to NRS 441A.560, the application for the emergency isolation or quarantine of the person made to the petitioning health authority pursuant to NRS 441A.560; and

2. A petition executed by a health authority, including, without limitation, a sworn statement that:

(a) The health authority or a physician, ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or registered nurse who submitted a certificate pursuant to NRS 441A.570, if such a certificate was submitted, has examined the person alleged to have been infected with or exposed to a communicable disease;

(b) In the opinion of the health authority, there is a reasonable degree of certainty that the person alleged to have been infected with or exposed to a communicable disease is currently capable of transmitting the disease, or is likely to become capable of transmitting the disease in the near future;

(c) Based on either the health authority's personal observation of the person alleged to have been infected with or exposed to the communicable disease or the health authority's epidemiological investigation of the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to the communicable disease, and on other facts set forth in the petition, the person likely poses an immediate threat to the health of the public; and

(d) In the opinion of the health authority, involuntary isolation or quarantine of the person alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, residence or other safe location is necessary to prevent the person from immediately threatening the health of the public.

Sec. 101. NRS 441A.630 is hereby amended to read as follows:

441A.630 1. After the filing of a petition to commence proceedings for the involuntary court-ordered isolation or quarantine of a person pursuant to NRS 441A.600 or 441A.610, the court shall promptly cause two or more physicians or ~~[licensed]~~ physician assistants ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** at least one of whom must always be a physician, to either examine the person alleged to have been infected with or exposed to a communicable disease or assess the likelihood that the person alleged to have been infected with or exposed to a communicable disease has been so infected or exposed.

2. To conduct the examination or assessment of a person who is not being detained at a public or private medical facility, residence or other safe location under emergency isolation or quarantine pursuant to the emergency order of a health authority or court made pursuant to NRS 441A.550 or 441A.560, the court may order a peace officer to take the person into protective custody and transport him to a public or private medical facility, residence or other safe location where he may be detained until a hearing is held upon the petition.

3. If the person is being detained at his home or other place of residence under an emergency order of a health authority or court pursuant to NRS 441A.550 or 441A.560, he may be allowed to remain in his home or other place of residence pending an ordered assessment, examination or examinations and to return to his home or other place of residence upon completion of the assessment, examination or examinations if such remaining or returning would not constitute an immediate threat to others residing in his home or place of residence.

4. Each physician and ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** who examines or assesses a person pursuant to subsection 1 shall, not later than 24 hours before the hearing set pursuant to NRS 441A.620, submit to the court in writing a summary of his findings and evaluation regarding the person alleged to have been infected with or exposed to a communicable disease.

Sec. 102. NRS 441A.640 is hereby amended to read as follows:

441A.640 1. The Health Division shall establish such evaluation teams as are necessary to aid the courts under NRS 441A.630 and 441A.700.

2. Each team must be composed of at least two physicians, or at least one physician and one physician assistant ~~[.]~~ ***licensed pursuant to chapter 630 or 633 of NRS.***

3. Fees for the evaluations must be established and collected as set forth in NRS 441A.650.

Sec. 103. NRS 441A.670 is hereby amended to read as follows:

441A.670 In proceedings for involuntary court-ordered isolation or quarantine, the court shall hear and consider all relevant testimony, including, but not limited to, the testimony of examining personnel who participated in the evaluation of the person alleged to have been infected with or exposed to a communicable disease and the certificates, if any, of a health authority or a physician, ~~[licensed]~~ physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** **or** registered nurse accompanying the petition.

Sec. 104. NRS 441A.720 is hereby amended to read as follows:

441A.720 When any involuntary court isolation or quarantine is ordered under the provisions of NRS 441A.500 to 441A.720, inclusive, the involuntarily isolated or quarantined person, together with the court orders, any certificates of the health authorities, physicians, ~~[licensed]~~ physician assistants ***licensed pursuant to chapter 630 or 633 of NRS*** or registered nurses, the written summary of the evaluation team and a full and complete

transcript of the notes of the official reporter made at the examination of such person before the court, must be delivered to the sheriff of the appropriate county who must be ordered to:

1. Transport the person; or

2. Arrange for the person to be transported by:

(a) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority; or

(b) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➥ to the appropriate public or private medical facility, residence or other safe location.

Sec. 105. NRS 442.003 is hereby amended to read as follows:

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

1. "Advisory Board" means the Advisory Board on Maternal and Child Health.

2. "Department" means the Department of Health and Human Services.

3. "Director" means the Director of the Department.

4. "Fetal alcohol syndrome" includes fetal alcohol effects.

5. "Health Division" means the Health Division of the Department.

6. "Obstetric center" has the meaning ascribed to it in NRS 449.0155.

7. "Provider of health care or other services" means:

(a) An alcohol and drug abuse counselor who is licensed or certified pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or ~~[an osteopathic physician who is licensed pursuant to chapter]~~ 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) A licensed social worker; or

(g) The holder of a certificate of registration as a pharmacist.

Sec. 106. NRS 442.119 is hereby amended to read as follows:

442.119 As used in NRS 442.119 to 442.1198, inclusive, unless the context otherwise requires:

1. "Health officer" includes a local health officer, a city health officer, a county health officer and a district health officer.

2. "Medicaid" has the meaning ascribed to it in NRS 439B.120.

3. "Medicare" has the meaning ascribed to it in NRS 439B.130.

4. "Provider of prenatal care" means:

(a) A physician who is licensed in this State and certified in obstetrics and gynecology, family practice, general practice or general surgery.

(b) A certified nurse midwife who is licensed by the State Board of Nursing.

(c) An advanced practitioner of nursing who has specialized skills and training in obstetrics or family nursing.

(d) A physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** who has specialized skills and training in obstetrics or family practice.

Sec. 107. NRS 449.0175 is hereby amended to read as follows:

449.0175 "Rural clinic" means a facility located in an area that is not designated as an urban area by the Bureau of the Census, where medical services are provided by a physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** or an advanced practitioner of nursing under the supervision of a licensed physician.

Sec. 108. NRS 453.038 is hereby amended to read as follows:

453.038 "Chart order" means an order entered on the chart of a patient:

1. In a hospital, facility for intermediate care or facility for skilled nursing which is licensed as such by the Health Division of the Department; or

2. Under emergency treatment in a hospital by a physician, advanced practitioner of nursing, dentist or podiatric physician, or on the written or oral order of a physician, physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** advanced practitioner of nursing, dentist or podiatric physician authorizing the administration of a drug to the patient.

Sec. 109. NRS 453.091 is hereby amended to read as follows:

453.091 1. "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

2. "Manufacture" does not include the preparation, compounding, packaging or labeling of a substance by a pharmacist, physician, physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** dentist, podiatric physician, advanced practitioner of nursing or veterinarian:

(a) As an incident to his administering or dispensing of a substance in the course of his professional practice; or

(b) By his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

Sec. 110. NRS 453.126 is hereby amended to read as follows:

453.126 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his profession in this State and is registered pursuant to this chapter.

2. An advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy authorizing him to dispense or to prescribe and dispense controlled substances.

3. A scientific investigator or a pharmacy, hospital or other institution licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, to administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

4. A euthanasia technician who is licensed by the Nevada State Board of Veterinary Medical Examiners and registered pursuant to this chapter, while he possesses or administers sodium pentobarbital pursuant to his license and registration.

5. A physician assistant who:

(a) Holds a license from the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of a physician as required by chapter 630 of NRS.

6. ~~[An osteopathic physician's]~~ ***A physician*** assistant who:

(a) Holds a ~~[certificate]~~ ***license*** from the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of an osteopathic physician as required by chapter 633 of NRS.

7. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer therapeutic pharmaceutical agents pursuant to NRS 636.288, when he prescribes or administers therapeutic pharmaceutical agents within the scope of his certification.

Sec. 111. NRS 453.128 is hereby amended to read as follows:

453.128 1. "Prescription" means:

(a) An order given individually for the person for whom prescribed, directly from a physician, ~~[osteopathic physician's assistant,]~~ physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian, or his agent, to a pharmacist or indirectly by means of an order signed by the practitioner or an electronic transmission from the practitioner to a pharmacist; or

(b) A chart order written for an inpatient specifying drugs which he is to take home upon his discharge.

2. The term does not include a chart order written for an inpatient for use while he is an inpatient.

Sec. 112. NRS 453.226 is hereby amended to read as follows:

453.226 1. Every practitioner or other person who dispenses any controlled substance within this State or who proposes to engage in the dispensing of any controlled substance within this State shall obtain biennially a registration issued by the Board in accordance with its regulations.

2. A person registered by the Board in accordance with the provisions of NRS 453.011 to 453.552, inclusive, to dispense or conduct research with

controlled substances may possess, dispense or conduct research with those substances to the extent authorized by the registration and in conformity with the other provisions of those sections.

3. The following persons are not required to register and may lawfully possess and distribute controlled substances pursuant to the provisions of NRS 453.011 to 453.552, inclusive:

(a) An agent or employee of a registered dispenser of a controlled substance if he is acting in the usual course of his business or employment;

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a physician, ~~[osteopathic physician's assistant,]~~ physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** dentist, advanced practitioner of nursing, podiatric physician or veterinarian or in lawful possession of a schedule V substance; or

(d) A physician who:

(1) Holds a locum tenens license issued by the Board of Medical Examiners or a temporary license issued by the State Board of Osteopathic Medicine; and

(2) Is registered with the Drug Enforcement Administration at a location outside this State.

4. The Board may waive the requirement for registration of certain dispensers if it finds it consistent with the public health and safety.

5. A separate registration is required at each principal place of business or professional practice where the applicant dispenses controlled substances.

6. The Board may inspect the establishment of a registrant or applicant for registration in accordance with the Board's regulations.

Sec. 113. NRS 453.336 is hereby amended to read as follows:

453.336 1. A person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, ~~[osteopathic physician's assistant,]~~ physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian while acting in the course of his professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted

two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than $20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than $600; or

(2) Examined by an approved facility for the treatment of abuse of drugs to determine whether he is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that he is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than $1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section, “controlled substance” includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

Sec. 114. NRS 453.371 is hereby amended to read as follows:

453.371 As used in NRS 453.371 to 453.552, inclusive:

1. ”Advanced practitioner of nursing” means a person who holds a certificate of recognition granted pursuant to NRS 632.237 and is registered with the Board.

2. ”Medical intern” means a medical graduate acting as an assistant in a hospital for the purpose of clinical training.

3. ”Pharmacist” means a person who holds a certificate of registration issued pursuant to NRS 639.127 and is registered with the Board.

4. ”Physician,” “dentist,” “podiatric physician,” “veterinarian” and “euthanasia technician” mean persons authorized by a license to practice their respective professions in this State who are registered with the Board.

5. ”Physician assistant” means a person who is registered with the Board and:

(a) Holds a license issued pursuant to NRS 630.273; or

(b) Holds a ~~[certificate]~~ ***license*** issued pursuant to ~~[NRS 633.451.]~~ ***section 29 of this act.***

Sec. 115. NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.

2. A physician assistant ***licensed pursuant to chapter 630 or 633 of NRS,*** at the direction of his supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(b) Acting under the direction of the medical director of that agency or facility who works in this State.

5. An intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(a) The State Board of Health in a county whose population is less than 100,000;

(b) A county board of health in a county whose population is 100,000 or more; or

(c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

6. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

7. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

8. A medical student or student nurse in the course of his studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

➥ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

9. Any person designated by the head of a correctional institution.

10. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

11. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

12. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

14. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

15. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

16. A veterinary technician at the direction of his supervising veterinarian.

17. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards of Immunization Practices" recommended and approved by the United States Public Health Service Advisory Committee on Immunization Practices.

18. A person who is enrolled in a training program to become a physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** dental hygienist, intermediate emergency medical technician, advanced

emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

Sec. 116. NRS 454.215 is hereby amended to read as follows:

454.215 A dangerous drug may be dispensed by:

1. A registered pharmacist upon the legal prescription from a practitioner or to a pharmacy in a correctional institution upon the written order of the prescribing practitioner in charge;

2. A pharmacy in a correctional institution, in case of emergency, upon a written order signed by the chief medical officer;

3. A practitioner, or a physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** if authorized by the Board;

4. A registered nurse, when the nurse is engaged in the performance of any public health program approved by the Board;

5. A medical intern in the course of his internship;

6. An advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy permitting him to dispense dangerous drugs;

7. A registered nurse employed at an institution of the Department of Corrections to an offender in that institution;

8. A registered pharmacist from an institutional pharmacy pursuant to regulations adopted by the Board; or

9. A registered nurse to a patient at a rural clinic that is designated as such pursuant to NRS 433.233 and that is operated by the Division of Mental Health and Developmental Services of the Department of Health and Human Services if the nurse is providing mental health services at the rural clinic,

➥ except that no person may dispense a dangerous drug in violation of a regulation adopted by the Board.

Sec. 117. NRS 454.221 is hereby amended to read as follows:

454.221 1. A person who furnishes any dangerous drug except upon the prescription of a practitioner is guilty of a category D felony and shall be punished as provided in NRS 193.130, unless the dangerous drug was obtained originally by a legal prescription.

2. The provisions of this section do not apply to the furnishing of any dangerous drug by:

(a) A practitioner to his patients;

(b) A physician assistant ***licensed pursuant to chapter 630 or 633 of NRS*** if authorized by the Board;

(c) A registered nurse while participating in a public health program approved by the Board, or an advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy permitting him to dispense dangerous drugs;

(d) A manufacturer or wholesaler or pharmacy to each other or to a practitioner or to a laboratory under records of sales and purchases that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity;

(e) A hospital pharmacy or a pharmacy so designated by a county health officer in a county whose population is 100,000 or more, or by a district health officer in any county within its jurisdiction or, in the absence of either, by the State Health Officer or his designated Medical Director of Emergency Medical Services, to a person or agency described in subsection 3 of NRS 639.268 to stock ambulances or other authorized vehicles or replenish the stock; or

(f) A pharmacy in a correctional institution to a person designated by the Director of the Department of Corrections to administer a lethal injection to a person who has been sentenced to death.

Sec. 118. NRS 484.393 is hereby amended to read as follows:

484.393 1. The results of any blood test administered under the provisions of NRS 484.383 or 484.391 are not admissible in any hearing or criminal action arising out of acts alleged to have been committed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 unless:

(a) The blood tested was withdrawn by a person, other than an arresting officer, who:

(1) Is a physician, physician assistant ~~[,]~~ ***licensed pursuant to chapter 630 or 633 of NRS,*** registered nurse, licensed practical nurse, emergency medical technician or a phlebotomist, technician, technologist or assistant employed in a medical laboratory; or

(2) Has special knowledge, skill, experience, training and education in withdrawing blood in a medically acceptable manner, including, without limitation, a person qualified as an expert on that subject in a court of competent jurisdiction or a person who has completed a course of instruction described in subsection 2 of NRS 652.127; and

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a police officer or the person to be tested to administer the test.

Sec. 119. NRS 632.450, 633.431, 633.441, 633.451, 633.461 and 640B.180 are hereby repealed.

Sec. 120. A certificate for an osteopathic physician's assistant that is current and valid on December 31, 2007, shall, on January 1, 2008, be deemed to be a license issued pursuant to section 29 of this act.

Sec. 121. 1. This act becomes effective:

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

(b) On January 1, 2008, for all other purposes.

2. The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.

3. Sections 11 and 25 of this act expire by limitation on January 1, 2012.

LEADLINES OF REPEALED SECTIONS

632.450 Schools of professional nursing: Minimum length of course of instruction.

633.431 Osteopathic physicians' assistants: Training programs and standards.

633.441 Osteopathic physicians' assistants: Application to employ assistant.

633.451 Osteopathic physicians' assistants: Approval of application to employ assistant; issuance and renewal of certificate.

633.461 Osteopathic physician's assistant: Scope of authorized activities.

640B.180 Professional associations to submit lists of persons qualified for membership on Board.

Assemblyman Oceguera moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 412.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Concurrent Resolution No. 35 be taken from the Chief Clerk's desk and placed on the Resolution File.

Motion carried.

Assembly Concurrent Resolution No. 35.

Assemblywoman Koivisto moved the adoption of the resolution.

Remarks by Assemblywoman Koivisto.

Resolution adopted and ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 319, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 869 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 45, which is attached to and hereby made a part of this report.

MORSE ARBERRY	BOB BEERS
BARBARA BUCKLEY	BOB COFFIN
JOE HARDY	DEAN RHOADS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA45.

SUMMARY—~~[Pledges that the retirement benefits for certain public employees will not be increased without adequate funding.]~~ **Makes various changes concerning public employees.** (BDR ~~[23-750)]~~ **17-750)**

AN ACT relating to public ~~[employees' retirement;]~~ **employees;** ~~[pledging that the Legislature will not increase the retirement benefits for certain public employees unless the retirement fund from which the benefits will be paid is funded at or above a certain level;]~~ **repealing various provisions concerning compensation for employees of the Legislature;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, the retirement benefits of public employees under the Public Employees' Retirement System are generally governed by the provisions of chapter 286 of NRS. There are two separate retirement funds established under the System pursuant to chapter 286 of NRS, the Public Employees' Retirement Fund and the Police and Firefighters' Retirement Fund. (NRS 286.220, 286.225) This bill sets forth the pledge of the Legislature that it will not increase any benefit or allowance payable under the System pursuant to chapter 286 of NRS unless the actuarial value of the assets of the retirement fund from which the benefit or allowance will be paid is equal to or greater than 85 percent of the actuarial accrued liabilities of that retirement fund.]~~ **Section 2 of this bill repeals a prohibition against compensating the Secretary of the Senate and the Chief Clerk of the Assembly for overtime. Section 3 of this bill repeals certain provisions concerning the definition of "compensation" for certain legislative employees for the purposes of the Public Employees' Retirement System.**

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

Section 1. [Chapter 286 of NRS is hereby amended by adding thereto a new section to read as follows:

~~*The Legislature hereby pledges that it will not enact any law which has the effect of increasing any benefit or allowance payable under the System*~~

~~*pursuant to this chapter unless the actuarial value of the assets of the retirement fund from which the benefit or allowance will be paid is equal to or greater than 85 percent of the actuarial accrued liabilities of that retirement fund, as determined in accordance with generally accepted accounting principles for government as prescribed by the Governmental Accounting Standards Board.]*~~ **(Deleted by amendment.)**

Sec. 2. ~~[(Deleted by amendment.)]~~ **NRS 218.195 is hereby amended to read as follows:**

218.195 1. The compensation of the Secretary of the Senate and the Chief Clerk of the Assembly must be provided for in the budget for the Legislature for the ensuing biennium. The compensation ~~[:~~

~~(a) Must]~~ ***must*** include an annual salary payable on a biweekly basis. The salary must not be increased during the biennium unless otherwise provided by a legislative act**.** ~~[; and~~

~~(b) Must not include compensation for overtime.]~~

2. Except as otherwise provided in this section, the Secretary of the Senate and the Chief Clerk of the Assembly are subject to the same requirements of and entitled to the same benefits and rights as specified for employees of the Legislative Counsel Bureau. For the purposes of this subsection, references in the statutes and in the rules and policies of the Legislative Counsel Bureau to the chief of a division or the Director of the Legislative Counsel Bureau must be replaced by:

(a) The Majority Leader of the Senate in the case of the Secretary of the Senate.

(b) The Speaker of the Assembly in the case of the Chief Clerk of the Assembly.

3. Notwithstanding the provisions of subsection 2, the Secretary of the Senate and the Chief Clerk of the Assembly are not employees of the Legislative Counsel Bureau.

Sec. 3. **Sections 1 and 11 of Assembly Bill No. 593 of this session are hereby repealed.**

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective upon passage and approval ~~[.]~~ **and applies retroactively to November 1, 2006.**

TEXT OF REPEALED SECTION

Section 1 of Assembly Bill No. 593 of this session:

Section 1. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of NRS 286.025, salary paid for all hours worked by an executive, administrative, professional or supervisory employee of the Legislative Counsel Bureau in addition to the employee's regularly scheduled workday or 40-hour workweek in the fiscal year that includes a regular session of the Legislature, up to a maximum number of hours designated as required for the classification by the Director of the Legislative Counsel Bureau and approved by the Legislative Commission,

constitutes "compensation." The Legislative Counsel Bureau and such employees shall make the appropriate contributions to the Public Employees' Retirement System for such compensation.

2. The maximum number of additional hours that may be designated as required for a classification pursuant to subsection 1 is 750.

Section 11 of Assembly Bill No. 593 of this session:

Sec. 11. A person who worked hours before and during the 2007 regular session of the Legislature that would have been considered as compensation pursuant to the provisions of section 1 of this act, had that section been in effect, may elect to have his payment for those hours, up to the limit established for his classification, and in no case more than 750 hours, considered as compensation by:

1. Notifying the Public Employees' Retirement System of his election; and

2. Paying the amount necessary to make both the employer and employee contributions to the System on the payment for the additional hours that the person desires to have considered as compensation. The Legislative Counsel Bureau shall not make any portion of the required contribution.

➥ The election and payment must be made on or before January 1, 2008.

Assemblyman Arberry moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 319.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 171, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 906 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 11, which is attached to and hereby made a part of this report.

KATHY MCCLAIN	JOSEPH HECK
ELLEN KOIVISTO	STEVEN HORSFORD
VALERIE WEBER	MAURICE WASHINGTON
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA11.

SUMMARY—Creates ~~[an advisory committee to the Legislative Committee on Health Care.]~~ **the Nevada Academy of Health.** (BDR 40-952)

AN ACT relating to health; creating ~~[an advisory committee to the Legislative Committee on Health Care;]~~ **the Nevada Academy of Health;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates ~~[an advisory committee to]~~ **the Nevada Academy of Health and authorizes** the Legislative Committee on Health Care, which is established pursuant to NRS 439B.200 ~~[.]~~ **, to prescribe certain duties and**

make various requests of the Academy. This bill expires by limitation on June 30, 2009.

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

Section 1. Chapter 439B of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby established ~~[an advisory committee to the Committee]~~ the Nevada Academy of Health consisting of 14 members as follows:

(a) The Director or his designee;

(b) One member who represents the Nevada System of Higher Education appointed by the Board of Regents of the University of Nevada;

(c) Six members appointed by the Governor;

(d) Two members appointed by the Majority Leader of the Senate;

(e) Two members appointed by the Speaker of the Assembly;

(f) One member appointed by the Minority Leader of the Senate; and

(g) One member appointed by the Minority Leader of the Assembly.

2. The members appointed to the Academy pursuant to subsection 1 must not be legislators and, to the extent practicable, must:

(a) Represent agencies and organizations that provide education or training for providers of health care;

(b) Be advocates for the rights of patients;

(c) Be recognized academic scholars; or

(d) Be members of the general public who have specialized knowledge and experience that are beneficial to the Academy.

3. The Chairman of the ~~[advisory committee]~~ Academy must be elected from among the members of the ~~[advisory committee.~~

~~3.]~~ Academy.

4. Each member of the ~~[advisory committee]~~ Academy who is not an officer or employee of the State serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

~~[4.]~~ 5. Each member of the ~~[advisory committee]~~ Academy who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may attend meetings of the Committee or the ~~[advisory committee]~~ Academy and is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, which must be paid by the state agency that employs him.

6. A vacancy occurring in the membership of the Academy must be filled in the same manner as the original appointment. A member of the Academy may be reappointed.

7. The Academy shall:

(a) Perform any duties prescribed by, and comply with all requests from, the Committee;

(b) Study issues relating to health care in this State, including, without limitation, medical and clinical research and the education and training of providers of health care;

(c) Establish standards and goals concerning the provision of health care which are measurable and regularly evaluated;

(d) Analyze and evaluate data relating to health care that is created, collected or reviewed by the Committee and the Department;

(e) Promote cooperation between the public and private sectors, including the transfer of technology used to provide health care and the establishment of business partnerships that promote economic development in this State;

(f) Provide recommendations to the Governor and the Legislature concerning the establishment of a statewide biomedical and health research program;

(g) Provide to the Committee:

(1) Such assistance and technical expertise on matters relating to health care as the Committee may request; and

(2) Advice and recommendations from consumers of health care; and

(h) Provide to the Department, at the direction of the Committee:

(1) Technical expertise in matters relating to health care; and

(2) Advice and recommendations from consumers of health care.

8. The Academy may appoint advisory committees if necessary or appropriate to assist the Academy in carrying out the provisions of this section.

9. The Academy may accept gifts, grants and donations of money from any source to carry out the provisions of this section.

Sec. 2. **NRS 439B.220 is hereby amended to read as follows:**

439B.220 The Committee may:

1. Review and evaluate the quality and effectiveness of programs for the prevention of illness.

2. Review and compare the costs of medical care among communities in Nevada with similar communities in other states.

3. Analyze the overall system of medical care in the State to determine ways to coordinate the providing of services to all members of society, avoid the duplication of services and achieve the most efficient use of all available resources.

4. Examine the business of providing insurance, including the development of cooperation with health maintenance organizations and organizations which restrict the performance of medical services to certain physicians and hospitals, and procedures to contain the costs of these services.

5. Examine hospitals to:

(a) Increase cooperation among hospitals;

(b) Increase the use of regional medical centers; and

(c) Encourage hospitals to use medical procedures which do not require the patient to be admitted to the hospital and to use the resulting extra space in alternative ways.

6. Examine medical malpractice.

7. Examine the system of education to coordinate:

(a) Programs in health education, including those for the prevention of illness and those which teach the best use of available medical services; and

(b) The education of those who provide medical care.

8. Review competitive mechanisms to aid in the reduction of the costs of medical care.

9. Examine the problem of providing and paying for medical care for indigent and medically indigent persons, including medical care provided by physicians.

10. Examine the effectiveness of any legislation enacted to accomplish the purpose of restraining the costs of health care while ensuring the quality of services, and its effect on the subjects listed in subsections 1 to 9, inclusive.

11. Determine whether regulation by the State will be necessary in the future by examining hospitals for evidence of:

(a) Degradation or discontinuation of services previously offered, including without limitation, neonatal care, pulmonary services and pathology services; or

(b) A change in the policy of the hospital concerning contracts,

➥ as a result of any legislation enacted to accomplish the purpose of restraining the costs of health care while ensuring the quality of services.

12. Study the effect of the acuity of the care provided by a hospital upon the revenues of the hospital and upon limitations upon that revenue.

13. Review the actions of the Director in administering the provisions of this chapter and adopting regulations pursuant to those provisions. The Director shall report to the Committee concerning any regulations proposed or adopted pursuant to this chapter.

14. Identify and evaluate, with the assistance of an advisory group, the alternatives to institutionalization for providing long-term care, including, without limitation:

(a) An analysis of the costs of the alternatives to institutionalization and the costs of institutionalization for persons receiving long-term care in this State;

(b) A determination of the effects of the various methods of providing long-term care services on the quality of life of persons receiving those services in this State;

(c) A determination of the personnel required for each method of providing long-term care services in this State; and

(d) A determination of the methods for funding the long-term care services provided to all persons who are receiving or who are eligible to receive those services in this State.

15. Evaluate, with the assistance of an advisory group, the feasibility of obtaining a waiver from the Federal Government to integrate and coordinate acute care services provided through Medicare and long-term care services provided through Medicaid in this State.

16. Evaluate, with the assistance of an advisory group, the feasibility of obtaining a waiver from the Federal Government to eliminate the requirement that elderly persons in this State impoverish themselves as a condition of receiving assistance for long-term care.

17. Conduct investigations and hold hearings in connection with its review and analysis.

18. Apply for any available grants and accept any gifts, grants or donations to aid the Committee in carrying out its duties pursuant to this chapter.

19. Direct the Legislative Counsel Bureau to assist in its research, investigations, review and analysis.

20. Recommend to the Legislature as a result of its review any appropriate legislation.

21. Prescribe duties and make requests, in addition to those set forth in section 1 of this act, of the Nevada Academy of Health established pursuant to that section.

Sec. 3. **1. The members of the Nevada Academy of Health must be appointed to terms that end on June 30, 2009.**

2. It is the intent of the members of the 74th Session of the Legislature that if the expiration of this act on June 30, 2009, does not occur because of subsequent revisions by the 75th Session of the Legislature, that the terms of the members of the Nevada Academy of Health be established as 3-year terms.

~~[Sec. 2.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2007, and expires by limitation on June 30, 2009.

Assemblyman Oceguera moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 171.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:42 p.m.

ASSEMBLY IN SESSION

At 10:46 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 544.

The following Senate amendment was read:

Amendment No. 1172.

SUMMARY—Makes ~~[an appropriation]~~ **appropriations** to the Department of Transportation for highway improvements. (BDR S-1225)

AN ACT making ~~[an appropriation]~~ **appropriations** to the Department of Transportation for highway improvements; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Transportation for improvements, funded by State General Fund revenues in excess of the spending cap, to:

1. Interstate Highway 15 in Las Vegas, the sum of $154,000,000.

2. State Route 160, Blue Diamond, ~~[from the junction with State Route 159 to Mountain Springs,]~~ the sum of $16,000,000 ~~[.]~~ **, except that no portion of this sum for improvements to State Route 160 may be utilized by the Department unless the State Controller, upon satisfactory proof submitted by the Department, determines that $2,000,000, in money or in goods and services provided in kind, or both, has been committed for such improvements from sources other than federal, state, regional or local governmental entities.**

Sec. 2. Any remaining balance of the appropriations made by section 1 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriations are made or any entity to which money from an appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 3. **In addition to the appropriations made by section 1 of this act, there is hereby appropriated from the State Highway Fund to the Department of Transportation for improvements to Interstate Highway 15 in Las Vegas:**

For the Fiscal Year 2007-2008 $8,000,000

For the Fiscal Year 2008-2009 $8,000,000

Sec. 4. **Any remaining balance of the appropriations made by section 3 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriations are made or any entity to which money from an appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money**

remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Highway Fund on or before September 16, 2011.

~~[Sec. 3.]~~ ***Sec. 5.*** **1.** This **section and sections 1 and 2 of this** act ~~[becomes]~~ **become** effective upon passage and approval.

2. Sections 3 and 4 of this act become effective on July 1, 2007.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 544.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Senate Bill No. 393, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 393.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 1174.

AN ACT relating to transportation; requiring certain employees of the Nevada Transportation Authority to receive certain training; changing the name of the "Transportation Services Authority" to the "Nevada Transportation Authority"; requiring the Authority to appoint a Deputy Commissioner; providing the qualifications and duties of the Deputy Commissioner; **requiring the placement of certain advisory questions on the general election ballot in each county;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Transportation Services Authority regulates fully regulated carriers, operators of tow cars and brokers of regulated services as provided for in chapter 706 of NRS. (NRS 706.151) Sections 11-13 and 16 of this bill change the name of the Transportation Services Authority to the Nevada Transportation Authority.

Section 6 of this bill requires the Authority to adopt regulations specifying the training which its compliance enforcement officers must receive.

Existing law allows the Authority to appoint a Deputy and employ other persons as needed. (NRS 706.176) Section 15 of this bill requires the Authority to appoint a Deputy Commissioner and sets forth the qualifications and duties for the position. Section 15 also requires the Authority to employ compliance enforcement officers and sets forth the duties for those positions.

Existing law provides that an employee designated as an inspector or as Manager of Transportation by the Authority is a peace officer and has police powers. (NRS 289.320) Section 18 of this bill amends this provision to apply only to inspectors.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***"Chairman" means the person designated as Chairman of the Authority by the Governor pursuant to NRS 706.1512.***

Sec. 3. ***"Compliance enforcement officer" means a person employed pursuant to NRS 706.176 whose duties include enforcing certain state statutes and regulations pertaining to motor carriers.***

Sec. 4. ***"Deputy Commissioner" means the person appointed as Deputy Commissioner of the Authority pursuant to NRS 706.176.***

Sec. 5. (Deleted by amendment.)

Sec. 6. ***The Authority shall adopt regulations setting forth the training which a compliance enforcement officer employed by the Authority pursuant to NRS 706.176 must complete, including, without limitation, training in commercial vehicle safety inspections provided by the Nevada Highway Patrol.***

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and sections 2 to 7, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, ***and sections 2, 3 and 4 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 706.018 is hereby amended to read as follows:

706.018 "Authority" means the ***Nevada*** Transportation ~~[Services]~~ Authority created pursuant to NRS 706.1511.

Sec. 10. NRS 706.151 is hereby amended to read as follows:

706.151 1. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, ***and sections 2 to 7, inclusive, of this act,*** to confer upon the Authority the power and to make it the duty of the Authority to regulate fully regulated carriers, operators of tow cars and brokers of regulated services to the extent provided in this chapter and to confer upon the Department of Motor Vehicles the power to license all motor carriers and to make it the duty of the Department of Motor Vehicles and the Department of Public Safety to enforce the provisions of this chapter and the regulations adopted by the Authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation, to promote safe, adequate, economical and efficient service and to foster sound economic conditions in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for:

(1) Intrastate transportation by fully regulated carriers; and

(2) Towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle,

➥ without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this State.

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 11. NRS 706.1511 is hereby amended to read as follows:

706.1511 1. The ***Nevada*** Transportation ~~[Services]~~ Authority is hereby created.

2. The Authority consists of three members appointed by the Governor. After the initial term each member shall serve a term of 4 years.

3. The Governor shall appoint to the Authority members who have at least 2 years of experience in one or more of the following fields:

(a) Accounting.

(b) Business administration.

(c) Economics.

(d) Administrative law.

(e) Transportation.

(f) Professional engineering.

➥ At least one but not more than two of the members appointed must be residents of Clark County.

4. Not more than two of the members may be:

(a) Members of the same political party.

(b) From the same field of experience.

5. All of the members must be persons who are independent of the industries regulated by the Authority. No elected officer of this State or any political subdivision is eligible for appointment.

6. The members of the Authority shall give their entire time to the business of the Authority and shall not pursue any other business or vocation or hold any other office of profit.

7. Each member of the Authority serves at the pleasure of the Governor.

Sec. 12. NRS 706.1513 is hereby amended to read as follows:

706.1513 The Authority may sue and be sued in the name of the ***Nevada*** Transportation ~~[Services]~~ Authority.

Sec. 13. NRS 706.1516 is hereby amended to read as follows:

706.1516 1. The ***Nevada*** Transportation ~~[Services]~~ Authority Regulatory Fund is hereby created as a special revenue fund. All money collected by the Authority pursuant to law must be deposited in the State Treasury for credit to the Fund.

2. Money in the Fund may be used only to defray the costs of:

(a) Maintaining staff and equipment needed to regulate adequately persons subject to the jurisdiction of the Authority.

(b) Participating in all proceedings relevant to the jurisdiction of the Authority.

(c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that maintenance and participation.

(d) The salaries, travel expenses and subsistence allowances of the members of the Authority.

3. All claims against the Fund must be paid as other claims against the State are paid.

4. The Authority must furnish upon request a statement showing the balance remaining in the Fund as of the close of the preceding fiscal year.

Sec. 14. NRS 706.1715 is hereby amended to read as follows:

706.1715 1. The Attorney General shall:

(a) Act as counsel and attorney for the Authority in all actions, proceedings and hearings.

(b) Prosecute in the name of the ***Nevada*** Transportation ~~[Services]~~ Authority all civil actions for the enforcement of this chapter and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Authority in the performance of its duties and the enforcement of this chapter.

2. The Attorney General or any district attorney may prosecute any violation of this chapter or chapter 712 of NRS for which a criminal penalty is provided.

Sec. 15. NRS 706.176 is hereby amended to read as follows:

706.176 *1.* The Authority ~~[may:~~

~~1. Appoint a Deputy who serves in the unclassified service of the State.~~

~~2. Employ]~~ ***shall appoint a Deputy Commissioner who:***

(a) Must be knowledgeable and experienced in public administration and fiscal management;

(b) Must be knowledgeable in the areas of motor carrier regulation by the Authority; and

(c) Must be independent of and have no pecuniary interest in any entity regulated by the Authority.

2. The Deputy Commissioner shall:

(a) Serve as Chief Financial Officer for the Authority and is responsible for directing the daily operation of the Authority, including, without limitation:

(1) Budget preparation;

(2) Administration;

(3) Human resources;

(4) Purchases and acquisitions made by the Authority; and

(5) Contracts and leases entered into by the Authority;

(b) Develop and implement policies and procedures to ensure the efficient operation of the Authority;

(c) Oversee:

(1) The review of applications for certificates, permits and modifications of tariffs;

(2) The maintenance of a hearing calendar of all matters pending before the Authority; and

(3) Compliance with and enforcement of State statutes and regulations pertaining to motor carriers which are regulated by the Authority; and

(d) Authenticate documents and serve as custodian of all agency records.

3. The Deputy Commissioner is in the unclassified service of the State.

4. The Authority shall employ compliance enforcement officers whose duties shall include, without limitation, enforcement activities to ensure motor carriers are operating in compliance with State statutes and regulations, conducting operational inspections of motor carriers and investigating complaints against motor carriers.

5. The Authority may employ such other personnel as may be necessary.

Sec. 16. NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

(a) Consumer Affairs Division.

(b) Division of Financial Institutions.

(c) Housing Division.

(d) Manufactured Housing Division.

(e) Real Estate Division.

(f) Division of Insurance.

(g) Division of Industrial Relations.

(h) Office of Labor Commissioner.

(i) Taxicab Authority.

(j) Nevada Athletic Commission.

(k) Office of the Nevada Attorney for Injured Workers.

(l) ***Nevada*** Transportation ~~[Services]~~ Authority.

(m) Division of Mortgage Lending.

(n) Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 17. (Deleted by amendment.)

Sec. 18. NRS 289.320 is hereby amended to read as follows:

289.320 An employee of the ***Nevada*** Transportation ~~[Services]~~ Authority whom it designates as an inspector ~~[or as Manager of Transportation]~~ is a peace officer and has police power for the enforcement of the provisions of:

1. Chapters 706 and 712 of NRS and all regulations of the *Nevada* Transportation ~~[Services]~~ Authority or the Department of Motor Vehicles pertaining thereto; and

2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620, inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

Sec. 19. On October 1, 2007, the State Controller shall transfer all assets and liabilities from the Transportation Services Authority Regulatory Fund to the Nevada Transportation Authority Regulatory Fund created pursuant to section 11 of this act.

Sec. 19.1. **At the general election on November 4, 2008, an advisory question must be placed on the general election ballot in each county in substantially the following form:**

Should a tax be imposed by the State on the weight and distance traveled by heavyweight trucks that are operated on the public highways of this State for the purpose of raising additional revenue for the construction and maintenance of public highways?

Sec. 19.2. **At the general election on November 4, 2008, an advisory question must be placed on the general election ballot in each county in substantially the following form:**

Should the depreciation schedule used to calculate the annual governmental services tax due for a used vehicle in this State be revised for the purpose of raising additional revenue for the construction and maintenance of public highways?

Sec. 19.3. **At the general election on November 4, 2008, an advisory question must be placed on the general election ballot in each county in substantially the following form:**

Should the State impose a surcharge per trip on each taxicab fare for the purpose of raising additional revenue for the construction and maintenance of public highways?

Sec. 19.4. **At the general election on November 4, 2008, an advisory question must be placed on the general election ballot in each county in substantially the following form:**

Should the State use toll roads for the purpose of raising additional revenue for the construction and maintenance of public highways?

Sec. 19.5. **At the general election on November 4, 2008, an advisory question must be placed on the general election ballot in each county in substantially the following form:**

Should the State charge a toll for the use of lanes added to a public highway for the purpose of raising the revenue to pay for the construction and maintenance of the additional lane?

Sec. 20. 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. 21. This act becomes effective upon passage and approval for the purpose of adopting regulations and conducting any preliminary activities necessary to ensure that the provisions of this act are carried out in an orderly fashion and on October 1, 2007, for all other purposes.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblymen Atkinson and Cobb.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 393.

Bill read third time.

Remarks by Assemblymen Atkinson and Mabey.

Assemblyman Oceguera, Conklin, and Manendo moved the previous question.

Motion carried.

The question being on the passage of Senate Bill No. 393.

Roll call on Senate Bill No. 393:

YEAS—27.

NAYS—Allen, Beers, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settelmeyer, Stewart, Weber—15.

Senate Bill No. 393 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 579, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 487, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 487.

Bill read third time.

Roll call on Assembly Bill No. 487:

YEAS—38.

NAYS—Beers, Claborn, Manendo, Mortenson—4.

Assembly Bill No. 487 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 579.

Bill read third time.

Roll call on Senate Bill No. 579:

YEAS—40.

NAYS—Beers, Manendo—2.

Senate Bill No. 579 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 274, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 945 and 993 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 35, which is attached to and hereby made a part of this report.

MARILYN KIRKPATRICK	MIKE MCGINNESS
DAVID BOBZIEN	DEAN RHOADS
PETE GOICOECHEA	MICHAEL SCHNEIDER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA35.

AN ACT relating to water; expanding the purposes for which the State Engineer may adopt regulations; ~~[expressing the sense of the Legislature as to the temporary conversion of certain water rights for certain ecological purposes;]~~ authorizing the State Engineer to impose administrative fines and to order payment of the costs of certain proceedings; **authorizing the State**

Engineer to consider the consumptive use of a water right under certain circumstances; authorizing the State Engineer to seek injunctive relief for certain violations; revising provisions relating to the protest of certain applications involving interbasin transfers of groundwater; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Pursuant to existing law, the State Engineer may make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred on him by law. (NRS 532.120) The penalty prescribed for the violation of a majority of the provisions set forth in chapters 533, 534, 535 and 536 of NRS is a misdemeanor. (NRS 533.480, 534.190, 535.110, 536.120)

Section 1 of this bill expands the provisions for which the State Engineer may adopt regulations to include chapters 534, 535 and 536 of NRS in addition to chapter 533 of NRS. ~~[Section 2.5 of this bill provides that it is the policy of the State of Nevada to allow the temporary conversion of certain agricultural water rights for wildlife purposes or to improve the quality or flow of water.]~~ Sections 3, 7, 10 and 14 of this bill provide the State Engineer with the additional authority to impose, after notice and opportunity for a hearing, administrative fines, to require a person to replace certain unlawfully taken or wasted water, and to recover expenses incurred in investigating and stopping various water law violations. Section 7 provides additionally that: (1) in determining violations relating to the unauthorized use of water from certain wells, it is the burden of the State Engineer to prove which user or users of water are withdrawing water in excess of their individual allotments; and (2) the State Engineer may require users of water from certain wells to install and maintain, at their own expense, meters to measure their individual withdrawal of water.

Sections 4, 8, 11 and 15 of this bill authorize the State Engineer to seek injunctive relief to prevent a violation or continued violation of chapters 533, 534, 535 and 536 of NRS.

Section 3.3 of this bill authorizes the State Engineer to consider the consumptive use of a water right in determining the appropriateness of approving a proposed change in the place of diversion, manner of use or place of use of water pursuant to that right. Section 3.5 of this bill authorizes the State Engineer, upon approval of an application to appropriate water, to limit the initial use of that water to an amount that is less than the total amount approved. If the State Engineer at a later date determines that water is available for the total amount approved for the application, he may authorize the use of that additional amount.

Existing law sets forth requirements for the State Engineer to provide certain notice of an application for a permit to appropriate water. These requirements include publishing the notice in a newspaper and, if the application is for a well, mailing a copy of the notice to owners of real property containing a domestic well that is within 2,500 feet of the proposed

well. (NRS 533.360) Existing law also allows an interested person to file with the State Engineer a written protest to the application. (NRS 533.365) Sections 4.7 and 4.9 of this bill require that if the State Engineer fails to grant, deny or hear an application for a permit to appropriate, change the point of diversion of, change the manner of use of, or change the place of use of more than 250 acre-feet of water per annum within 7 years after the date on which the application was submitted, the State Engineer must, if the application involves an interbasin transfer of groundwater, notice a new period of protest of 45 days. This bill also provides that certain successors in interest of persons who had already filed a written protest against the granting of such an application must be allowed to continue pursuing the protest as though they were the person who had filed the original protest.

Section 16 of this bill requires the State Engineer to consider certain matters in adopting regulations to carry out the amendatory provisions of this bill.

Section 17 of this bill requires the State Engineer, on or before January 1, 2009, to submit to the Director of the Legislative Counsel Bureau a written report detailing his efforts in, and progress toward, the development and adoption of regulations to carry out the amendatory provisions of this bill.

Section 18 of this bill prohibits the State Engineer, before July 1, 2009, from imposing an administrative penalty pursuant to the amendatory provisions of this bill or any regulations adopted to carry out those amendatory provisions.

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

Section 1. NRS 532.120 is hereby amended to read as follows:

532.120 1. The State Engineer ~~[is empowered to]~~ ***may*** make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred by law.

2. The State Engineer ~~[shall have power to make rules,]~~ ***may adopt regulations,*** not in conflict with law, governing the practice and procedure in all contests before his office, to ~~[insure]~~ ***ensure*** the proper and orderly exercise of the powers granted by law, and the speedy accomplishment of the purposes of ~~[chapter]~~ ***chapters*** **533** ***, 534, 535 and 536*** of NRS. Such rules of practice and procedure ~~[shall]~~ ***must*** be furnished to any person upon application therefor.

Sec. 2. Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 to 4.5, inclusive, of this act.

Sec. 2.5. ~~*[The Legislature hereby finds and declares that it is the policy of this State to allow the temporary conversion of agricultural water rights for wildlife purposes or to improve the quality or flow of water.]*~~ **(Deleted by amendment.)**

Sec. 3. ***1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person***

who violates any provision of this chapter or any permit, certificate, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120 to:

(a) Pay an administrative fine not to exceed $10,000 per day for each violation as determined by the State Engineer.

(b) In the case of an unauthorized use or willful waste of water in violation of NRS 533.460 or an unlawful diversion of water in violation of NRS 533.530, or any other violation of this chapter that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

2. If an administrative fine is imposed against a person pursuant to subsection 1 or the person is ordered to replace any water pursuant to that subsection, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the replacement of water or the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 3.3. ***1. The State Engineer may consider the consumptive use of a water right and the consumptive use of a proposed beneficial use of water in determining whether a proposed change in the place of diversion, manner of use or place of use complies with the provisions of subsection 5 of NRS 533.370.***

2. The provisions of this section:

(a) Must not be applied by the State Engineer in a manner that is inconsistent with any applicable federal or state decree concerning consumptive use.

(b) Do not apply to any decreed, certified or permitted right to appropriate water which originates in the Virgin River or the Muddy River.

Sec. 3.5. ***1. Upon approval of an application to appropriate water, the State Engineer may limit the initial use of water to a quantity that is less than the total amount approved for the application. The use of an additional amount of water that is not more than the total amount approved for the application may be authorized by the State Engineer at a later date if additional evidence demonstrates to the satisfaction of the State Engineer that the additional amount of water is available and may be appropriated in accordance with this chapter and chapter 534 of NRS. In making that determination, the State Engineer may establish a period during which additional studies may be conducted or additional evidence provided to support the application.***

2. In any basin in which an application to appropriate water is approved pursuant to subsection 1, the State Engineer may act upon any other pending application to appropriate water in that basin that the State Engineer concludes constitutes the use of a minimal amount of water.

Sec. 4. ***1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or***

practice which violates any provision of this chapter, or any permit, certificate, decision or order issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120.

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, or any permit, certificate, decision or order issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation specified in this section.

Sec. 4.5. ***The State Engineer shall not carry out his duties pursuant to this chapter in a manner that conflicts with any applicable provision of a decree or order issued by a state or federal court, an interstate compact or an agreement to which this State is a party for the interstate allocation of water pursuant to an act of Congress.***

Sec. 4.7. NRS 533.365 is hereby amended to read as follows:

533.365 1. Any person interested may, within 30 days ~~[from]~~ ***after*** the date of last publication of the notice of application, file with the State Engineer a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest, which ~~[shall]~~ ***must*** be verified by the affidavit of the protestant, his agent or attorney.

2. On receipt of a protest, the State Engineer shall advise the applicant whose application has been protested of the fact that the protest has been filed with him, which advice ~~[shall]~~ ***must*** be sent by certified mail.

3. The State Engineer shall consider the protest, and may, in his discretion, hold hearings and require the filing of such evidence as he may deem necessary to a full understanding of the rights involved. The State Engineer shall give notice of the hearing by certified mail to both the applicant and the protestant. The notice must state the time and place at which the hearing is to be held and must be mailed at least 15 days before the date set for the hearing.

4. ***Each applicant and each protestant shall, in accordance with a schedule established by the State Engineer, provide to the State Engineer and to each protestant and each applicant information required by the State Engineer relating to the application or protest.***

5. If the State Engineer holds a hearing pursuant to subsection 3, the State Engineer shall render a decision on each application not later than 240 days after the later of:

(a) The date all transcripts of the hearing become available to the State Engineer; or

(b) The date specified by the State Engineer for the filing of any additional information, evidence, studies or compilations requested by the State Engineer. The State Engineer may, for good cause shown, extend any applicable period.

6. The State Engineer shall adopt rules of practice regarding the conduct of ~~[such hearings.]~~ ***a hearing held pursuant to subsection 3.*** The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

~~[5.]~~ ***7. The provisions of this section do not prohibit the noticing of a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application, if such notification is required to be given pursuant to subsection 8 of NRS 533.370.***

Sec. 4.9. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and ~~[8,]~~ ***11*** ~~[7]~~ ***and NRS 533.365,*** the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

(b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court

actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection ~~[8,]~~ ***11,*** the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection ~~[8,]~~ ***11,*** where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The

written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~[9,]~~ *12*, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. ***If:***

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

➥ the State Engineer shall notice a new period of 45 days in which a person who is a successor in interest to a protestant or an affected water right owner may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in subsection 10, a person who is a successor in interest to a protestant or an affected water right owner who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. If a person is the successor in interest of an owner of a water right ~~*[, an owner of real property containing a domestic well or an owner of an interest in a domestic well, and if that previous owner had already filed a written protest against the granting of an application to allow an interbasin transfer of groundwater, the successor in interest must be allowed to pursue that protest in the same manner as though he were the previous owner to whose interest he succeeded. If such a successor in interest wishes to protest*~~

~~*an application in accordance with a new period of protest noticed pursuant to subsection 8, the successor need not file with the State Engineer a new written protest but must, within 45 days after the date on which the notification was entered and mailed, inform the Office of the State Engineer that he wishes to continue pursuing the protest.]*~~ ***or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if he were the former owner whose interest he succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer on a form provided by the State Engineer.***

11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.

~~[9.]~~ ***12.*** The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

~~[10.]~~ ***13.*** As used in this section ~~[, "interbasin]~~ *:*

(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.

(b) "Domestic well" has the meaning ascribed to it in NRS 534.350.

(c) "Interbasin transfer of groundwater" means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.

Sec. 5. NRS 533.450 is hereby amended to read as follows:

533.450 1. Any person feeling himself aggrieved by any order or decision of the State Engineer, acting in person or through his assistants or the water commissioner, affecting his interests, when ~~[such]~~ ***the*** order or decision relates to the administration of determined rights or is made pursuant to NRS 533.270 to 533.445, inclusive, ***or section 3, 7, 10 or 14 of this act,*** may have the same reviewed by a proceeding for that purpose, insofar as may be in the nature of an appeal, which ~~[shall]~~ ***must*** be initiated in the proper court of the county in which the matters affected or a portion thereof are situated ***,*** ~~[,]~~ but on stream systems where a decree of court has been entered, the action ~~[shall]~~ ***must*** be initiated in the court that entered the decree. ~~[Such]~~ ***The*** order or decision of the State Engineer ~~[shall be and remain]~~ ***remains*** in full force and effect unless proceedings to review the same are commenced in the proper court within 30 days ~~[following]~~ ***after*** the rendition of the order or decision in question and notice thereof is given to the State Engineer as provided in subsection 3.

2. The proceedings in every case ~~[shall]~~ ***must*** be heard by the court, and ~~[shall]~~ ***must*** be informal and summary, but full opportunity to be heard ~~[shall]~~ ***must*** be had before judgment is pronounced.

3. No such proceedings may be entertained unless notice thereof, containing a statement of the substance of the order or decision complained of, and of the manner in which the same injuriously affects the petitioner's interests, has been served upon the State Engineer, personally or by registered or certified mail, at his office at the State Capital within 30 days following the rendition of the order or decision in question. A similar notice ~~[shall]~~ ***must*** also be served personally or by registered or certified mail upon the person ~~[or persons]~~ who may have been affected by ~~[such]~~ ***the*** order or decision.

4. Where evidence has been filed with, or testimony taken before, the State Engineer, a transcribed copy thereof, or of any specific part of the same, duly certified as a true and correct transcript in the manner provided by law, ~~[shall]~~ ***must*** be received in evidence with the same effect as if the reporter were present and testified to the facts so certified. A copy of the transcript ~~[shall]~~ ***must*** be furnished on demand, at actual cost, to any person affected by ~~[such]~~ ***the*** order or decision, and to all other persons on payment of a reasonable amount therefor, to be fixed by the State Engineer.

5. A bond ~~[shall]~~ ***must*** not be required except when a stay is desired, and the proceedings provided for in this section are not a stay unless, within 5 days ~~[following]~~ ***after*** the service of notice thereof, a bond is filed in an amount to be fixed by the court, with sureties satisfactory to ~~[such]~~ ***the*** court, conditioned to perform the judgment rendered in ~~[such]~~ ***the*** proceedings.

6. Costs ~~[shall]~~ ***must*** be paid as in civil cases brought in the district court, except by the State Engineer or the State.

7. The practice in civil cases applies to the informal and summary character of such proceedings, as provided in this section.

8. Appeals may be taken to the Supreme Court from the judgment of the district court in the same manner as in other civil cases.

9. The decision of the State Engineer ~~[shall be]~~ *is* prima facie correct, and the burden of proof ~~[shall be]~~ ***is*** upon the party attacking the same.

10. Whenever it appears to the State Engineer that any litigation, whether now pending or hereafter brought, may adversely affect the rights of the public in water, he shall request the Attorney General to appear and protect the interests of the State.

Sec. 6. Chapter 534 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. ***1. Except as otherwise provided in NRS 534.280, 534.310 and 534.330 and in addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120 to:***

(a) Pay an administrative fine not to exceed $10,000 per day for each violation as determined by the State Engineer.

(b) In the case of an unlawful waste of water in violation of NRS 534.070 or any other violation of this chapter that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

2. In determining violations of this chapter relating to the unauthorized use of water yielded from a well that is used pursuant to a permit issued by the State Engineer and that has 16 or fewer connections, the State Engineer has the burden of proving which user is withdrawing water in excess of the portion of water allotted to the connection of that user. The State Engineer may require any or all users of the well to install and maintain, at their own expense, a meter that measures the amount of water withdrawn from the well by each connection.

3. If an administrative fine is imposed against a person pursuant to subsection 1 or the person is ordered to replace any water pursuant to that subsection, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

4. An order imposing an administrative fine or requiring the replacement of water or payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 8. ***1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120.***

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

Sec. 9. Chapter 535 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. ***1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person***

who violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120 to pay an administrative fine not to exceed $10,000 per day for each violation as determined by the State Engineer.

2. If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 11. ***1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120.***

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

Sec. 12. NRS 535.100 is hereby amended to read as follows:

535.100 1. ~~[It is unlawful for any person being]~~ ***Any person who is*** the owner of or in possession of any sawmill used for the making of lumber, or any slaughterhouse, brewery or tannery ~~[to]~~ ***shall not*** injure or obstruct the natural flow of water in any river, creek or other stream.

2. Any city or county government, or any person, ~~[being]~~ ***who is*** the owner of or in possession of any agricultural lands ~~[, who may be]~~ ***and who is*** injured by reason of the violation on the part of any person of the provisions contained in subsection 1 ~~[, shall have the right to]~~ ***may*** commence and maintain an action against ~~[such]~~ ***the*** person for any damage sustained, in such manner as may be provided by law.

~~[3. Any person who shall willfully and knowingly violate the provisions of this section shall be punished by a fine of not more than $500.]~~

Sec. 13. Chapter 536 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. ***1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120 to pay an administrative fine not to exceed $10,000 per day for each violation as determined by the State Engineer.***

2. If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 15. ***1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120.***

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

Sec. 16. The State Engineer shall, in adopting regulations to carry out the amendatory provisions of **sections 1, 3, 4, 4.5, 7, 8, 10, 11, 12, 14 and 15 of** this act:

1. Consider establishing a minimum threshold amount of water that a user of water would be required to exceed in using, wasting or diverting

water in an unlawful manner before an administrative penalty would be imposed;

2. Comply with the provisions of chapter 233B of NRS;

3. Consider waiving an administrative penalty for a violation if the violator has, in the determination of the State Engineer, made significant progress toward correcting the violation; and

4. In addition to the requirements of subsection 1, consider waiving an administrative penalty in the case of an unauthorized use or willful waste of water in violation of NRS 533.460 or an unlawful diversion of water in violation of NRS 533.530, if the amount of water so used or wasted does not exceed 2 acre-feet per annum.

Sec. 17. The State Engineer shall, on or before January 1, 2009, submit to the Director of the Legislative Counsel Bureau a written report detailing the efforts and progress of the State Engineer in developing and adopting regulations to carry out the amendatory provisions of this act.

Sec. 18. The State Engineer shall not, before July 1, 2009, impose an administrative penalty pursuant to the amendatory provisions of this act or any regulations adopted to carry out the amendatory provisions of this act.

Sec. 19. **The amendatory provisions of subsection 8 of section 4.9 of this act do not apply to:**

1. An application to appropriate water filed before July 1, 2007;

2. An application to change the place of diversion, manner of use or place of use of appropriated water filed before that date; or

3. A written protest relating to an application specified in subsection 1 or 2.

~~[Sec. 19.]~~ ***Sec. 20.*** This act becomes effective on July 1, 2007.

Assemblywoman Kirkpatrick moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 274.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 192 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 287 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 319 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 192.

Bill read third time.

Conflict of interest declared by Assemblymen Cobb and Bobzien.

Roll call on Senate Bill No. 192:

YEAS—39.

NAYS—None.

NOT VOTING—Anderson, Bobzien, Cobb—3.

Senate Bill No. 192 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 287.

Bill read third time.

Roll call on Senate Bill No. 287:

YEAS—42.

NAYS—None.

Senate Bill No. 287 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 319.

Bill read third time.

Remarks by Assemblyman Cobb.

Roll call on Senate Bill No. 319:

YEAS—41.

NAYS—Kirkpatrick.

Senate Bill No. 319 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 115.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 146, Amendment No. 1169, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 619, Senate Amendments Nos. 1096, 1134, and requests a conference, and appointed Senators Nolan, Heck and Lee as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 319.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Oceguera, Conklin, and Allen as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 619.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 619, consisting of the undersigned members, has met and reports that:

A new resolution be substituted, which is attached to and hereby made a part of this report.

JOHN OCEGUERA	DENNIS NOLAN
MARCUS CONKLIN	JOSEPH HECK
FRANCIS ALLEN	JOHN LEE
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Oceguera moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 619.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 146.

The following Senate amendment was read:

Amendment No. 1169.

AN ACT relating to health care; requiring the Department of Health and Human Services to establish programs to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State; requiring the Department to establish and maintain an Internet website which provides certain information concerning the charges imposed and the quality of health care provided by those hospitals and centers; requiring those hospitals and centers to submit certain information to the Department for the programs; requiring the Department to make certain determinations before performing certain duties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the planning for health care in this State, including the promotion of equal access to quality health care at a reasonable cost. (Chapter 439A of NRS) Sections 3 and 4.3 of this bill require the Department of Health and Human Services to establish programs to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State. The programs must include the provision of information concerning the charges imposed and the quality of services provided by those hospitals and centers. Sections 4 and 4.7 of this bill require the Department to adopt regulations pertaining to the programs and require the hospitals and centers to submit the information for

the programs. Section 5 of this bill requires the Department to collect and maintain that information. Section 6 of this bill requires the Department to establish and maintain an Internet website which provides information to the general public concerning the charges imposed and the quality of services provided by the hospitals and surgical centers for ambulatory patients in this State. Section 6.5 of this bill authorizes the Department to accept contributions to carry out the provisions of sections 2-7 of this bill. Section 6.5 also requires the Department to determine at the beginning of each biennium whether sufficient money is available to fund one or more components of the programs and duties of the Department relating to sections 2-7.

Under existing law, the Director of the Office for Consumer Health Assistance maintains an Internet website which includes certain information concerning prescription drug programs and pharmacies. (NRS 223.560) Section 14 of this bill requires the Director to include on the website a link to the website maintained by the Department of Health and Human Services to provide information to the general public concerning the charges imposed and the quality of services provided by the hospitals and surgical centers for ambulatory patients in this State.

Sections 15 and 16 of this bill specify the dates on which the hospitals and surgical centers for ambulatory patients are required to commence submitting the information for the programs. Section 16 also allows the Department to extend the deadline by which it must post this information on its website if the Department reports to the Legislative Committee on Health Care that the information submitted is not ready for posting.

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

Section 1. Chapter 439A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2.3 and 2.9 of this act have the meanings ascribed to them in those sections.***

Sec. 2.3. ***"Hospital" has the meaning ascribed to it in NRS 449.012.***

Sec. 2.7. (Deleted by amendment.)

Sec. 2.9. ***"Surgical center for ambulatory patients" has the meaning ascribed to it in NRS 449.019.***

Sec. 3. ***1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.***

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to section 4 of this act;

(c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; and

(e) Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 4. ***1. The Department shall, by regulation:***

(a) Prescribe the information that each hospital in this State must submit to the Department for the program established pursuant to section 3 of this act.

(b) Prescribe the measures of quality for hospitals that are required pursuant to paragraph (b) of subsection 2 of section 3 of this act. In adopting the regulations, the Department shall:

(1) Use the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum , Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, a quality improvement organization of the Centers for Medicare and Medicaid Services and the Joint Commission on Accreditation of Healthcare Organizations;

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the hospitals; and

(3) Take into consideration the financial burden placed on the hospitals to comply with the regulations.

➥ The measures prescribed pursuant to this paragraph must report health outcomes of hospitals, which do not necessarily correlate with the inpatient diagnosis-related groups or the outpatient treatments that are posted on the Internet website pursuant to section 6 of this act.

(c) Require each hospital to:

(1) Provide the information prescribed in paragraphs (a) and (b) in the format required by the Department; and

(2) Report the information separately for inpatients and outpatients.

2. The information required pursuant to this section and section 3 of this act must be submitted to the Department not later than 45 days after the last day of each calendar month.

3. If a hospital fails to submit the information required pursuant to this section or section 3 of this act or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the hospital and to the Health Division of the Department.

Sec. 4.3. ***1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the surgical centers for ambulatory patients in this State. The program must be designed to assist consumers with comparing the quality of care provided by the surgical centers for ambulatory patients in this State and the charges for that care.***

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) The charges imposed on outpatients by each surgical center for ambulatory patients in this State as reported in the forms submitted pursuant to section 4.7 of this act;

(b) The quality of care provided by each surgical center for ambulatory patients in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to section 4.7 of this act;

(c) How consistently each surgical center for ambulatory patients follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each surgical center for ambulatory patients, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; and

(e) Any other information relating to the charges imposed and the quality of the services provided by the surgical centers for ambulatory patients in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

Sec. 4.7. ***1. The Department shall, by regulation:***

(a) Prescribe the information that each surgical center for ambulatory patients in this State must submit to the Department for the program as set forth in section 4.3 of this act and the form for submission of such information.

(b) Prescribe the measures of quality for surgical centers for ambulatory patients that are required pursuant to paragraph (b) of subsection 2 of section 4.3 of this act. In adopting the regulations, the Department shall:

(1) Use measures of quality which are substantially similar to those required pursuant to subparagraph (1) of paragraph (b) of subsection 1 of section 4 of this act;

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the surgical centers for ambulatory patients; and

(3) Take into consideration the financial burden placed on the surgical centers for ambulatory patients to comply with the regulations.

➥ The measures prescribed pursuant to this paragraph must report health outcomes of surgical centers for ambulatory patients, which do not necessarily correlate with the outpatient treatments posted on the Internet website pursuant to section 6 of this act.

(c) Require each surgical center for ambulatory patients to provide the information prescribed in paragraphs (a) and (b) in the format required by the Department.

(d) Prescribe which surgical centers for ambulatory patients in this State must participate in the program established pursuant to section 4.3 of this act.

2. The information required pursuant to this section and section 4.3 of this act must be submitted to the Department not later than 45 days after the last day of each calendar month.

3. If a surgical center for ambulatory patients fails to submit the information required pursuant to this section or section 4.3 of this act or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the surgical center for ambulatory patients and to the Health Division of the Department.

Sec. 5. ***1. The Department shall collect and maintain all information that it receives from the hospitals and surgical centers for ambulatory patients in this State pursuant to sections 3 to 4.7, inclusive, of this act. Upon request, the Department shall make a summary of the information available to:***

(a) Consumers of health care;

(b) Providers of health care;

(c) Representatives of the health insurance industry; and

(d) The general public.

2. The Department shall ensure that the information it provides pursuant to this section is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital or of a surgical center for ambulatory patients.

Sec. 6. ***1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to sections 3 and 4.3 of this act. The information must:***

(a) Include, for each hospital in this State, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(b) Include, for each surgical center for ambulatory patients in this State, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

(1) Geographic location of each hospital;

(2) Type of medical diagnosis; and

(3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

(1) Geographic location of each surgical center for ambulatory patients;

(2) Type of medical diagnosis; and

(3) Type of medical treatment;

(e) Be presented in a manner that allows a person to view and compare the information separately for :

(1) The inpatients and outpatients of each hospital; and

(2) The outpatients of each surgical center for ambulatory patients;

(f) Be readily accessible and understandable by a member of the general public; and

(g) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

2. The Department shall:

(a) Publicize the availability of the Internet website;

(b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;

(e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the

quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;

(f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(g) Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 6.5. *1. On or before July 1 of each odd-numbered year, the Department shall make a determination of whether sufficient money is available and authorized for expenditure to fund one or more components of the programs and other duties of the Department relating to sections 2 to 7, inclusive, of this act.*

2. The Department shall temporarily suspend any components of the program or duties of the Department for which it determines pursuant to subsection 1 that sufficient money is not available.

3. The Department may accept any gift, donation, bequest, grant or other source of money for the purpose of carrying out the provisions of sections 2 to 7, inclusive of this act.

Sec. 7. *1. In carrying out the provisions of sections 2 to 7, inclusive, of this act, the Department ~~[may]~~ :*

(a) Shall work in consultation with a quality improvement organization of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(b) May contract with the Nevada System of Higher Education or any appropriate, independent and qualified person or entity to analyze the information collected and maintained by the Department pursuant to sections 2 to 7, inclusive, of this act. Such a contractor may release or publish or otherwise use ~~[any]~~ information made available to it pursuant to the contract if the Department determines that the information is accurate ~~[.]~~ and the contractor complies with the regulations adopted pursuant to subsection 2.

2. The Department shall adopt regulations for the review and release of information collected and maintained by the Department pursuant to sections 2 to 7, inclusive, of this act. The regulations must require, without limitation, the Department to review each request for information if the request is for purposes other than research.

3. The Department shall, on or before July 1 of each year, submit to the Legislative Committee on Health Care a report concerning each

request that is made pursuant to subsection 2 and the determination of the Department with regard to each request.

Sec. 8. NRS 439A.020 is hereby amended to read as follows:

439A.020 The purposes of this chapter are to:

1. Promote equal access to quality health care at a reasonable cost;

2. Promote an adequate supply and distribution of health resources;

3. Promote uniform, effective methods of delivering health care;

4. Promote and encourage the adequate distribution of health and care facilities and man power;

5. Promote and encourage the effective use of methods for controlling increases in the cost of health care;

6. Encourage participation in health planning by members of the several health professions, representatives of institutions and agencies interested in the provision of health care and the reduction of the cost of such care, and the general public;

7. Utilize the viewpoint of the general public for making decisions;

8. ***Provide information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State;***

9. Encourage public education regarding proper personal health care and methods for the effective use of available health services; and

~~[9.]~~ ***10.*** Promote a program of technical assistance to purchasers to contain effectively the cost of health care, including:

(a) Providing information to purchasers regarding the charges made by practitioners.

(b) Training purchasers to negotiate successfully for a policy of health insurance.

(c) Conducting studies and providing other information about measures to assist purchasers in containing the cost of health care.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 449.485 is hereby amended to read as follows:

449.485 1. Each hospital in this State shall use for all patients discharged the form commonly referred to as the "UB-82," or a different form prescribed by the Director with the approval of a majority of the hospitals licensed in this State, and shall include in the form all information required by the Department.

2. ~~[The Department shall by regulation:~~

~~(a) Specify]~~ ***Each hospital in this State shall, on a monthly basis, report to the Department*** the information required to be included in the form for each patient . ~~[; and~~

~~(b) Require each hospital to provide specified information from the form to the Department.]~~

3. Each insurance company or other payer shall accept the form as the bill for services provided by hospitals in this State.

4. Except as otherwise provided in subsection 5, each hospital ~~[with 100 or more beds]~~ ***in this State*** shall provide the information required pursuant to ~~[paragraph (b) of]~~ subsection 2 ~~[on magnetic tape or by other means]~~ *in an* ***electronic form*** specified by the Department . ~~[, or shall provide copies of the forms and pay the costs of entering the information manually from the copies.]~~

5. The Director may exempt a hospital from the requirements of subsection 4 if requiring the hospital to comply with the requirements would cause the hospital financial hardship.

6. The Department shall use the information submitted pursuant to this section for the program established pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State.

Sec. 12. NRS 449.490 is hereby amended to read as follows:

449.490 1. Every institution which is subject to the provisions of NRS 449.450 to 449.530, inclusive, shall file with the Department the following financial statements or reports in a form and at intervals specified by the Director but at least annually:

(a) A balance sheet detailing the assets, liabilities and net worth of the institution for its fiscal year; and

(b) A statement of income and expenses for the fiscal year.

2. Each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually, a capital improvement report which includes, without limitation, any major service line that the hospital has added or is in the process of adding since the previous report was filed, any major expansion of the existing facilities of the hospital that has been completed or is in the process of being completed since the previous report was filed, and any major piece of equipment that the hospital has acquired or is in the process of acquiring since the previous report was filed.

3. In addition to the information required to be filed pursuant to subsections 1 and 2, each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually:

(a) The corporate home office allocation methodology of the hospital, if any.

(b) The expenses that the hospital has incurred for providing community benefits and the in-kind services that the hospital has provided to the community in which it is located. For the purposes of this paragraph, "community benefits" includes, without limitation, goods, services and resources provided by a hospital to a community to address the specific needs and concerns of that community, services provided by a hospital to the uninsured and underserved persons in that community, training programs for employees in a community and health care services provided in areas of a

community that have a critical shortage of such services, for which the hospital does not receive full reimbursement.

(c) A statement of its policies and procedures for providing discounted services to, or reducing charges for services provided to, persons without health insurance that are in addition to any reduction or discount required to be provided pursuant to NRS 439B.260.

(d) A statement of its policies regarding patients' account receivables, including, without limitation, the manner in which a hospital collects or makes payment arrangements for patients' account receivables, the factors that initiate collections and the method by which unpaid account receivables are collected.

4. A complete current charge master must be available at each hospital during normal business hours for review by the Director, any payor that has a contract with the hospital to pay for services provided by the hospital, any payor that has received a bill from the hospital and any state agency that is authorized to review such information. ***The complete and current charge master must be made available to the Department, at the request of the Director, in an electronic format specified by the Department. The Department may use the electronic copy of the charge master to review and analyze the data contained in the charge master and, except as otherwise provided in sections 2 to 7, inclusive, of this act, shall not release or publish the information contained in the charge master.***

5. The Director shall require the certification of specified financial reports by an independent certified public accountant and may require attestations from responsible officers of the institution that the reports are, to the best of their knowledge and belief, accurate and complete to the extent that the certifications and attestations are not required by federal law.

6. The Director shall require the filing of all reports by specified dates, and may adopt regulations which assess penalties for failure to file as required, but he shall not require the submission of a final annual report sooner than 6 months after the close of the fiscal year, and may grant extensions to institutions which can show that the required information is not available on the required reporting date.

7. All reports, except privileged medical information, filed under any provisions of NRS 449.450 to 449.530, inclusive, are open to public inspection and must be available for examination at the office of the Department during regular business hours.

Sec. 13. NRS 449.520 is hereby amended to read as follows:

449.520 1. On or before October 1 of each year, the Director shall prepare and transmit to the Governor, the Legislative Committee on Health Care and the Interim Finance Committee a report of the Department's operations and activities for the preceding fiscal year.

2. The report prepared pursuant to subsection 1 must include:

(a) Copies of all summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive, together with such facts, suggestions and policy recommendations as the Director deems necessary;

(b) A summary of the trends of the audits of hospitals in this State that the Department required or performed during the previous year;

(c) An analysis of the trends in the costs, expenses and profits of hospitals in this State;

(d) An analysis of the corporate home office allocation methodologies of hospitals in this State;

(e) An examination and analysis of the manner in which hospitals are reporting the information that is required to be filed pursuant to NRS 449.490, including, without limitation, an examination and analysis of whether that information is being reported in a standard and consistent manner, which fairly reflect the operations of each hospital;

(f) A review and comparison of the policies and procedures used by hospitals in this State to provide discounted services to, and to reduce charges for services provided to, persons without health insurance; ~~[and]~~

(g) A review and comparison of the policies and procedures used by hospitals in this State to collect unpaid charges for services provided by the hospitals ~~[.]~~ *; and*

(h) A summary of the status of the programs established pursuant to sections 3 and 4.3 of this act to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State, including, without limitation, the information that was posted in the preceding fiscal year on the Internet website maintained for those programs pursuant to section 6 of this act.

3. The Legislative Committee on Health Care shall develop a comprehensive plan concerning the provision of health care in this State which includes, without limitation:

(a) A review of the health care needs in this State as identified by state agencies, local governments, providers of health care and the general public; and

(b) A review of the capital improvement reports submitted by hospitals pursuant to subsection 2 of NRS 449.490.

Sec. 14. NRS 223.560 is hereby amended to read as follows:

223.560 The Director shall:

1. Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

2. Assist consumers and injured employees in understanding their rights and responsibilities under health care plans and policies of industrial insurance;

3. Identify and investigate complaints of consumers and injured employees regarding their health care plans and policies of industrial

insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

(a) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(b) Providing counseling and assistance to consumers and injured employees concerning health care plans and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans and policies of industrial insurance in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services; and

9. Establish and maintain an Internet website which includes:

(a) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; ~~[and]~~

(b) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328 ~~[.]~~ ***; and***

(c) A link to the website established and maintained pursuant to section 6 of this act which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State.

Sec. 15. 1. Each hospital in this State shall, for each patient discharged on and after July 1, 2007, submit to the Department of Health and Human Services the information concerning inpatient data required pursuant to sections 3 and 4 of this act.

2. The Department shall review the data concerning inpatients submitted by each hospital in this State and, on or before January 1, 2008, begin posting such information on the Internet website established pursuant to section 6 of this act.

3. Each hospital in this State shall, for each patient discharged on and after January 1, 2008, begin submitting to the Department the information concerning outpatient data that is required pursuant to sections 3 and 4 of this act.

4. The Department shall review the data concerning outpatients submitted by each hospital in this State and, except as otherwise provided in this subsection, on or before January 1, 2009, begin posting such information on the Internet website established pursuant to section 6 of this act. The Department shall, on or before December 1, 2008, report to the Legislative Committee on Health Care concerning the activities of the Department pursuant to this section and sections 3 and 4 of this act, including, without limitation, a report on whether the information concerning outpatients submitted pursuant to sections 3 and 4 of this act is ready for posting on the Internet website established pursuant to section 6 of this act. If the Department submits to the Legislative Committee on Health Care a report that such information is not ready for posting on the Internet website, the Legislative Committee on Health Care may extend the deadline by which the information must be posted.

Sec. 16. 1. Each surgical center for ambulatory patients in this State shall, on January 1, 2008, begin submitting to the Department of Health and Human Services the information required by the Department pursuant to sections 4.3 and 4.7 of this act.

2. The Department shall review the data concerning outpatients submitted by each surgical center for ambulatory patients in this State and, on or before December 1, 2008, report to the Legislative Committee on Health Care concerning the activities of the Department pursuant to this section and sections 4.3 and 4.7 of this act, including, without limitation, a report on whether the Department is able to adequately and accurately report the information submitted pursuant to sections 4.3 and 4.7 of this act. If the Department submits to the Legislative Committee on Health Care a report that the information collected pursuant to sections 4.3 and 4.7 of this act is not ready for posting on the Internet website because it is not accurate or is incomplete, the Legislative Committee on Health Care may extend the deadline by which the information must be posted pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the Department shall, on January 1, 2009, begin posting the information received pursuant to sections 4.3 and 4.7 of this act on the Internet website established pursuant to section 6 of this act.

4. As used in this section, "surgical center for ambulatory patients" has the meaning ascribed to it in NRS 449.019.

Sec. 17. In addition to any other report required pursuant to this act or a state law, the Department of Health and Human Services shall submit to the Legislative Committee on Health Care, on or before the first day of each month, a report which includes:

1. The status of the collection of data pursuant to sections 2 to 7, inclusive, of this act;

2. The status of the establishment of an Internet website pursuant to section 6 of this act;

3. Any regulations adopted pursuant to sections 4 and 4.7 of this act; and

4. Any other information related to carrying out the provisions of this act.

Sec. 18. 1. The Department of Health and Human Services shall not send to the Health Division of the Department a notice required pursuant to subsection 3 of section 4 of this act until:

(a) July 1, 2008, if the notice concerns the submission of information relating to inpatients of a hospital; and

(b) January 1, 2009, if the notice concerns the submission of information relating to outpatients of a hospital.

2. The Department of Health and Human Services shall not send to the Health Division of the Department a notice required pursuant to subsection 3 of section 4.7 of this act until January 1, 2009, if the notice concerns information submitted by a surgical center for ambulatory patients.

Sec. 19. This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 146.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that the Assembly, with the concurrence of the Senate, Waive Joint Standing Rule 19.5 and allow the Assembly to continue to conduct legislative business until 1:00 a.m. on June 5, 2007.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 5, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 184; Senate Bill No. 490; Senate Bill No. 517.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 517, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 1053 of the Assembly be receded from and a 3rd reprint be created in accordance with this action which is attached to and hereby made a part of this report.

MORSE ARBERRY

T. GRADY
Assembly Conference Committee

BOB BEERS
JOHN LEE
WARREN HARDY
Senate Conference Committee

Assemblyman Arberry moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 517.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 490, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 1018 and 1123 of the Assembly be concurred in.

JOHN OCEGUERA	BARBARA CEGAVSKE
MARCUS CONKLIN	RANDOLPH TOWNSEND
JOHN CARPENTER	STEVEN HORSFORD
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Oceguera moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 490.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 184, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 821 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 42, which is attached to and hereby made a part of this report.

BONNIE PARNELL	BARBARA CEGAVSKE
TICK SEGERBLOM	BOB BEERS
LYNN STEWART	MAURICE WASHINGTON
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA42.

AN ACT relating to education; revising provisions governing the statewide system of accountability for public schools and school districts; revising provisions governing the Commission on Educational Excellence; revising provisions governing the Commission on Educational Technology; prescribing the minimum credits required of pupils enrolled in high school in certain courses of study; providing for a waiver from the required enrollment in the minimum credits; revising provisions governing the adoption of academic standards; revising provisions governing promotion to high school; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The State Board of Education and each school district are required to prepare annual reports of accountability information. (NRS 385.3469, 385.347, 385.349) In addition, the State Board, each school district and each public school are required to prepare a plan to improve the achievement of pupils. (NRS 385.34691, 385.348, 385.357) Sections 1-7 of this bill revise the provisions governing the annual reports of accountability and the plans to improve.

Each public school is designated annually based upon the yearly progress of the pupils enrolled in the school. (NRS 385.3623, 385.366) If a school is designated for 1 year as demonstrating need for achievement, a technical assistance partnership must be established for the school. (NRS 385.3661, 385.3691, 385.3692) If the school is designated for 2 consecutive years as demonstrating need for improvement, the technical assistance partnership must be continued. (NRS 385.3693) Sections 9, 10 and 24 of this bill eliminate the requirement for the establishment of technical assistance partnerships.

If a public school is designated as demonstrating need for improvement for 3 consecutive years or more, a support team must be established for that school. (NRS 385.3721, 385.374, 385.3741) A support team is required to recommend certain types of corrective action for the school. (NRS 385.3744, 385.376) Sections 11-14 of this bill revise provisions governing the school support teams and the recommendation of corrective action.

Existing law creates the Commission on Educational Excellence and requires the Commission to provide for the distribution of grants of money to public schools and school districts from the Account for Programs for Innovation and the Prevention of Remediation. (NRS 385.3781-385.379) Section 15.5 of this bill revises provisions governing the factors for consideration by the Commission in awarding grants of money from the Account.

Existing law creates the Commission on Educational Technology and requires the Commission to establish a plan for the use of educational technology in the public schools. (NRS 388.790, 388.795) Section 19 of this bill requires the Commission to conduct an assessment of the needs of each school district relating to educational technology during the spring semester of each even-numbered school year for submission to the Legislative Committee on Education and the Legislature.

Existing law designates the core academic subjects that must be taught in all public schools as English, mathematics, science and social studies. (NRS 389.018) Section 20 of this bill prescribes the minimum units of credit in the core academic subjects in which a pupil must enroll. Section 20 also provides that the pupil, his parent or legal guardian and an administrator or counselor at the school may mutually agree to a modified course of study for the pupil.

Existing law requires the Council to Establish Academic Standards for Public Schools to establish the standards of content and performance for certain courses of study. (NRS 389.520) The State Board is required to adopt the standards as submitted by the Council. Section 21 of this bill authorizes the State Board to object to the standards and return the standards to the Council for reconsideration.

Existing law prohibits a pupil from being promoted to high school unless he completes certain course work and credits. (NRS 392.033) Section 22 of this bill provides ~~[that if a pupil has]~~ **for remedial study for pupils who**

have been retained ~~[one time]~~ in grade 8 **.** ~~[and he fails again to successfully complete the requirements, he must complete a program of remedial study.]~~

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following ~~[subgroups]~~ ***groups*** of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the ~~[subgroups]~~ ***groups*** identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as

demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total

number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in ***grade 8 and a separate reporting of the annual rate of pupils who drop out of school in*** grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole . ~~[,~~ ~~excluding]~~ ***The reporting for pupils in grades 9 to 12, inclusive, excludes*** pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district,

including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma ~~[.]~~ ***, reported separately for pupils who received the diploma pursuant to:***

(I) Paragraph (a) of subsection 1 of section 4 of Senate Bill No. 312 of this session; and

(II) Paragraph (b) of subsection 1 of section 4 of Senate Bill No. 312 of this session.

(2) An adjusted diploma.

(3) A certificate of attendance.

(bb) ~~[The]~~ ***For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the*** number and percentage of pupils who ~~[did not receive a high school diploma because the pupils]~~ failed to pass the high school proficiency examination . ~~[, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.]~~

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

2. A separate reporting for a ~~[subgroup]~~ ***group*** of pupils must not be made pursuant to this section if the number of pupils in that ~~[subgroup]~~ ***group*** is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a ~~[subgroup]~~ ***group*** for that ~~[subgroup]~~ ***group*** to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.34691 is hereby amended to read as follows:

385.34691 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

(1) Employees of the Department;

(2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; and

(4) At least one representative of the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516, appointed by the Council; and

(b) May be prepared in consultation with:

(1) Representatives of institutions of higher education;

(2) Representatives of regional educational laboratories;

(3) Representatives of outside consultant groups;

(4) Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;

(5) The Bureau; and

(6) Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3469 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors common among the school districts or charter schools in this State, as revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in public schools in this State, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each ~~[subgroup]~~ ***group*** identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school districts;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at public schools in this State to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in public schools in this State, as deemed appropriate by the State Board.

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) The requirements for admission to an institution of higher education and the opportunities for financial aid;

(2) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.938, inclusive; and

(3) The need for a pupil to make informed decisions about his curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification, by category, of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively.

(g) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

3. The State Board shall:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.

4. On or before December 15 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

(a) Governor;

(b) Committee;

(c) Bureau;

(d) Board of Regents of the University of Nevada;

(e) Council to Establish Academic Standards for Public Schools created by NRS 389.510;

(f) Board of trustees of each school district; and

(g) Governing body of each charter school.

Sec. 3. NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes,

without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:

(1) Who are economically disadvantaged, as defined by the State Board;

(2) Who are from major racial or ethnic groups, as defined by the State Board;

(3) With disabilities;

(4) Who are limited English proficient; and

(5) Who are migratory children, as defined by the State Board;

(b) The average daily attendance of pupils, reported separately for the ~~[subgroups]~~ ***groups*** identified in paragraph (a);

(c) The transiency rate of pupils;

(d) The percentage of pupils who are habitual truants;

(e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;

(f) The number of incidents resulting in suspension or expulsion for:

(1) Violence to other pupils or to school personnel;

(2) Possession of a weapon;

(3) Distribution of a controlled substance;

(4) Possession or use of a controlled substance; and

(5) Possession or use of alcohol;

(g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;

(h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;

(i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;

(j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;

(k) The number and percentage of pupils who graduated from high school;

(l) The number and percentage of pupils who received a:

(1) Standard diploma;

(2) Adult diploma;

(3) Adjusted diploma; and

(4) Certificate of attendance;

(m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;

(n) Per pupil expenditures;

(o) Information on the professional qualifications of teachers;

(p) The average daily attendance of teachers and licensure information;

(q) Information on the adequate yearly progress of the schools and school districts;

(r) Pupil achievement based upon the examinations administered pursuant to NRS 389.550 and the high school proficiency examination;

(s) To the extent practicable, pupil achievement based upon the examinations administered pursuant to NRS 389.015 for grades 4, 7 and 10; and

(t) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. On or before September 7 of each year, the State Board shall:

(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and

(b) Submit a copy of the summary in an electronic format to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

Sec. 4. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed ***educational*** personnel ~~[in education]~~ in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall ~~[:~~

~~(a) Report]~~ ***report*** the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school.

~~[(b) For the information that is reported in an aggregated format, include the data that is applicable to]~~ ***The information for charter schools must be reported separately and must denote*** the charter schools sponsored by the school district ~~[but not the charter schools that are sponsored by the State Board.~~

~~(c) Denote separately in the report those charter schools that are located within the school district]~~ and ***the charter schools*** sponsored by the State Board.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations . ~~[;]~~

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school . ~~[;]~~

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following ~~[subgroups]~~ ***groups*** of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board . ~~[;]~~

(4) A comparison of the achievement of pupils in each ~~[subgroup]~~ ***group*** identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board . ~~[;]~~

(5) The percentage of pupils who were not tested . ~~[;]~~

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the ~~[subgroups]~~ ***groups*** identified in subparagraph (3) . ~~[;]~~

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available . ~~[;]~~

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison . ~~[; and]~~

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a ~~[subgroup]~~ ***group*** of pupils must not be made pursuant to this paragraph if the number of pupils in that ~~[subgroup]~~ ***group*** is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a ~~[subgroup]~~ ***group*** for that ~~[subgroup]~~ ***group*** to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty

schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in ***grade 8 and a separate reporting of the annual rate of pupils who drop out of school in*** grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole . ~~[, excluding]~~ ***The reporting for pupils in grades 9 to 12, inclusive, excludes*** pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma ~~[.]~~ ***, reported separately for pupils who received the diploma pursuant to:***

(I) Paragraph (a) of subsection 1 of section 4 of Senate Bill No. 312 of this session; and

(II) Paragraph (b) of subsection 1 of section 4 of Senate Bill No. 312 of this session.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who ~~[did not receive a high school diploma because the pupils]~~ failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

➥ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee; and

(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the

residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 5. NRS 385.348 is hereby amended to read as follows:

385.348 1. The board of trustees of each school district shall, in consultation with the employees of the school district, prepare a plan to improve the achievement of pupils enrolled in the school district, excluding pupils who are enrolled in charter schools located in the school district. If the school district is a Title I school district designated as demonstrating need for improvement pursuant to NRS 385.377, the plan must also be prepared in consultation with parents and guardians of pupils enrolled in the school district and other persons who the board of trustees determines are appropriate.

2. Except as otherwise provided in this subsection, the plan must include the items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto. If a school district has not been designated as demonstrating need for improvement pursuant to NRS 385.377, the board of trustees of the school district is not required to include those items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto that directly relate to the status of a school district as needing improvement.

3. In addition to the requirements of subsection 2, a plan to improve the achievement of pupils enrolled in a school district must include:

(a) A review and analysis of the data upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at individual schools that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in the school district, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each ~~[subgroup]~~ ***group*** identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school district;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed by the school district to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in the school district, as deemed appropriate by the board of trustees of the school district.

(e) An identification, by category, of the employees of the school district who are responsible for ensuring that each provision of the plan is carried out effectively.

(f) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(g) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from the school district, by program and by school, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the school district to carry out the plan, including, without limitation, a budget of the overall cost for carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature that are available to the school district or the schools within the school district to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(l) An identification of the programs, practices and strategies that are used throughout the school district and by the schools within the school district that have proven successful in improving the achievement and proficiency of pupils, including, without limitation:

(1) An identification of each school that carries out such a program, practice or strategy;

(2) An indication of which programs, practices and strategies are carried out throughout the school district and which programs, practices and strategies are carried out by individual schools;

(3) The extent to which the programs, practices and strategies include methods to improve the achievement and proficiency of pupils in each ~~[subgroup]~~ ***group*** identified in paragraph (b) of subsection 1 of NRS 385.361; and

(4) A description of how the school district disseminates information concerning the successful programs, practices and strategies to all schools within the school district.

4. The board of trustees of each school district shall:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school district.

5. On or before December 15 of each year, the board of trustees of each school district shall submit the plan or the revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee; and

(f) Bureau.

Sec. 6. NRS 385.349 is hereby amended to read as follows:

385.349 1. The board of trustees of each school district shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) The information set forth in subsection 1 of NRS 385.34692, reported for the school district as a whole and for each school within the school district;

(b) Information on the involvement of parents and legal guardians in the education of their children; and

(c) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau and the school districts, prescribe a form that contains the basic information required by subsection 1. The board of trustees of a school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district shall:

(a) Submit the summary in an electronic format to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee;

(5) Bureau; and

(6) Schools within the school district.

(b) Provide for the public dissemination of the summary by posting a copy of the summary on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the summary. The board of trustees of each school district shall ensure that the parents and guardians of pupils enrolled in the school district have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district, if any. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the summary.

5. The board of trustees of each school district shall ~~[:~~

~~(a) Report]~~ ***report*** the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school.

~~[(b) For the information that is reported in an aggregated format, include the data that is applicable to]~~ ***The information for charter schools must be reported separately and must denote*** the charter schools sponsored by the school district ~~[but not the charter schools that are sponsored by the State Board.~~

~~(c) Denote separately in the report those charter schools that are located within the school district]~~ and ***the charter schools*** sponsored by the State Board.

Sec. 7. NRS 385.357 is hereby amended to read as follows:

385.357 1. The principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school,

prepare a plan to improve the achievement of the pupils enrolled in the school.

2. The plan developed pursuant to subsection 1 must include:

(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at the school that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.

(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each ~~[subgroup]~~ ***group*** of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.

(e) Annual measurable objectives, consistent with the annual measurable objectives established by the State Board pursuant to NRS 385.361, for the continuous and substantial progress by each ~~[subgroup]~~ ***group*** of pupils identified in paragraph (b) of subsection 1 of that section who are enrolled in the school to ensure that each ~~[subgroup]~~ ***group*** will make adequate yearly progress and meet the level of proficiency prescribed by the State Board.

(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.

(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year-round calendar for pupils enrolled in the school who need additional instructional time to pass or to reach a level considered proficient.

(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each ~~[subgroup]~~ ***group*** identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.

(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.

(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.

(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.

(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(p) A budget of the overall cost for carrying out the plan.

3. In addition to the requirements of subsection 2, if a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623, the plan must comply with 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto.

4. Except as otherwise provided in subsection 5, the principal of each school shall, in consultation with the employees of the school:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 ~~[, the technical assistance partnership or the]~~ ***and a*** support team ***has been*** established for the school, ~~[as applicable,]~~ ***the support team*** shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS ~~[385.3692 or 385.3741, as applicable.]~~ ***385.3741.*** If the school is a Title I school that has been designated as demonstrating need for improvement, the ~~[technical assistance partnership or]~~ support team established for the school ~~[, as applicable,]~~ shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the ~~[partnership or]~~ support team, outside experts.

6. On or before November 1 of each year, the principal of each school ~~[, or the technical assistance partnership]~~ or ***the*** support team established for the school, as applicable, shall submit the plan or the revised plan, as applicable, to:

(a) If the school is a public school of the school district, the superintendent of schools of the school district.

(b) If the school is a charter school, the governing body of the charter school.

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

8. If a school is designated as demonstrating exemplary achievement, high achievement or adequate achievement, or if a school that is not a Title I school is designated as demonstrating need for improvement, not later than 45 days after receipt of the plan or the revised plan, as applicable, the

superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan if it meets the requirements of this section.

9. On or before December 15 of each year, the principal of each school ~~[, or the technical assistance partnership]~~ or ***the*** support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

(g) Board of trustees of the school district in which the school is located.

10. A plan for the improvement of a school must be carried out expeditiously, but not later than January 1 after approval of the plan pursuant to subsection 7 or 8, as applicable.

Sec. 8. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before June 30 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State Board, the Department shall make a determination for the charter school in consultation with the State Board. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b), the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the State Board the determination made for each charter school that is sponsored by the State Board.

4. Except as otherwise provided in this subsection, the Department shall determine that a public school has failed to make adequate yearly progress if any ~~[subgroup]~~ ***group*** identified in paragraph (b) of subsection 1 of NRS 385.361 does not satisfy the annual measurable objectives established by the

State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a ~~[subgroup]~~ ***group*** identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

5. In addition to the provisions of subsection 4, the Department shall determine that a public school has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each ~~[subgroup]~~ ***group*** of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the ~~[subgroup]~~ ***group*** enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in that ~~[subgroup]~~ ***group*** enrolled in the school who were required to take the examinations.

6. If the number of pupils in a particular ~~[subgroup]~~ ***group*** who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 5 based solely upon that particular ~~[subgroup.]~~ ***group.***

(b) The pupils in such a ~~[subgroup]~~ ***group*** must be included in the overall count of pupils enrolled in the school who took the examinations.

➥ The State Board shall prescribe the mechanism for determining the number of pupils that must be in a ~~[subgroup]~~ ***group*** for that ~~[subgroup]~~ ***group*** to yield statistically reliable information.

7. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

8. As used in this section:

(a) "Irregularity in testing administration" has the meaning ascribed to it in NRS 389.604.

(b) "Irregularity in testing security" has the meaning ascribed to it in NRS 389.608.

Sec. 9. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. ~~[If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the technical assistance~~

~~partnership established for the school pursuant to this section shall carry out the requirements of NRS 385.3692.~~

~~2.]~~ Except as otherwise provided in subsection ~~[3,]~~ *2*, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; ***and***

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto . ~~[; and~~

~~(c) Establish a technical assistance partnership for the school, with the membership prescribed pursuant to NRS 385.3691.~~

~~3.]~~ *2.* If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) The governing body of the charter school shall ~~[:~~

~~(1) Provide]~~ ***provide*** notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382 . ~~[; and~~

~~(2) Establish a technical assistance partnership for the charter school, with the membership prescribed pursuant to NRS 385.3691.]~~

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. ~~[The provisions of this paragraph do not require the school district to pay for the technical assistance partnership established by the governing body of the charter school.]~~

(c) For a charter school sponsored by the State Board, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[4.]~~ *3.* In addition to the requirements of subsection ~~[2 or 3,]~~ ***1 or 2,*** as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) For a charter school sponsored by the State Board, the Department shall work cooperatively with the board of trustees of the school district in

which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 10. NRS 385.3693 is hereby amended to read as follows:

385.3693 1. ~~[If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the technical assistance partnership established for the school pursuant to NRS 385.3661 shall carry out the requirements of NRS 385.3692.~~

~~2.]~~ Except as otherwise provided in subsection ~~[3,]~~ ***2,*** if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; ***and***

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto . ~~[; and~~

~~(c) Continue the technical assistance partnership for the school.~~

~~3.]~~ *2.* If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall ~~[:~~

~~(1) Provide]~~ ***provide*** notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382 . ~~[; and~~

~~(2) Continue the technical assistance partnership for the school.]~~

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. ~~[The provisions of this paragraph do not require the school district to pay for the technical assistance partnership established by the governing body of the charter school.]~~

(c) For a charter school sponsored by the State Board, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 11. NRS 385.374 is hereby amended to read as follows:

385.374 *1.* The membership of each support team established pursuant to NRS 385.3721 ~~[:~~

~~1. Must]~~ ***must*** consist of, without limitation:

(a) Teachers and principals who are considered highly qualified and who are not employees of the public school for which the support team is established;

(b) ~~[At least one representative of the Department,]~~ ***One member appointed in accordance with subsection 3,*** who must serve as the ~~[facilitator]~~ ***team leader*** of the support team;

(c) Except for a charter school, at least one administrator at the district level who is employed by the board of trustees of the school district;

(d) At least one parent or guardian of a pupil who is enrolled in the public school for which the support team is established; and

(e) In addition to the requirements of paragraphs (a) to (d), inclusive, for a charter school:

(1) At least one member of the governing body of the charter school, regardless of the sponsor of the charter school; and

(2) If the charter school is sponsored by the board of trustees of a school district, at least one employee of the school district, which may include an administrator.

2. ~~[May]~~ ***The membership of each support team established pursuant to NRS 385.3721 may*** consist of, without limitation:

(a) Except for a charter school, one or more members of the board of trustees of the school district in which the school is located;

(b) Representatives of institutions of higher education;

(c) Representatives of regional educational laboratories;

(d) Representatives of outside consultant groups;

(e) Representatives of the regional training program for the professional development of teachers and administrators created by NRS 391.512 that provides services to the school district in which the school is located;

(f) The Bureau; and

(g) Other persons who the Department determines are appropriate.

3. The member appointed pursuant to paragraph (b) of subsection 1 must:

(a) Be employed by the Department; or

(b) If he is not employed by the Department, have the training and experience required by the Department.

Sec. 12. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(e) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(f) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the State Board, the support team shall make the recommendations to the State Board and the Department.

(g) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the names and duties of each person who is responsible for carrying out the revisions.

(h) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school.

(i) Prepare a ~~[monthly]~~ ***quarterly*** progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(j) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise ~~[monthly]~~ ***quarterly*** progress report for use by each support team in accordance with paragraph (i) of subsection 1.

Sec. 13. NRS 385.3744 is hereby amended to read as follows:

385.3744 1. Except as otherwise provided in subsection ~~[2,]~~ *3,* if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, the support team established for the school shall consider whether corrective action is appropriate for the school. If the support team determines that corrective action is appropriate, the support team shall make a recommendation ~~[to the Department]~~ for corrective action for the school, including, without limitation, the type of corrective action that is recommended from the list of corrective actions authorized pursuant to ~~[paragraphs (a), (b) and (c).]~~ ***subsection 2. The recommendation must be submitted to:***

(a) For a school of the school district or a charter school sponsored by the board of trustees of the school district, the board of trustees.

(b) For a charter school sponsored by the State Board, the Department.

2. Regardless of whether a support team recommends corrective action for a school, the Department ***may, for a charter school sponsored by the State Board, and the board of trustees of a school district*** **may** ***, for a school of the school district or a charter school sponsored by the board of trustees,*** take one or more of the following corrective actions for the school:

(a) Develop and carry out a new curriculum at the school, including the provision of appropriate professional development relating to the new curriculum.

(b) ~~[Decrease the number]~~ ***Significantly decrease the managerial authority*** of ***the*** employees at the school . ~~[who carry out managerial duties.]~~

(c) Extend the school year or the school day.

~~[2.]~~ ***3.*** The Department ***or the board of trustees of a school district, as applicable,*** shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the **Department** ***or the board of trustees, as applicable,*** may proceed with corrective action as if the delay never occurred.

Sec. 14. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years for failure to make adequate yearly progress, the support team for the school shall:

(a) If corrective action was not taken against the school pursuant to NRS 385.3744, consider whether corrective action is appropriate for the school.

(b) If corrective action was taken against the school pursuant to NRS 385.3744, consider whether further corrective action is appropriate or whether consequences or sanctions, or both, are appropriate for the school.

~~[2.]~~

2. Regardless of whether a support team recommends corrective action or consequences or sanctions for a school, the Department ***may, for a charter school sponsored by the State Board, and the board of trustees of a school district*** **may** ***, for a school of the school district or a charter school sponsored by the board of trustees,*** take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

~~[2.]~~ *3.* The Department ***or the board of trustees of a school district, as applicable,*** shall grant a delay from the imposition of corrective action or restructuring pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Department ***or the board of trustees, as applicable,*** may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

~~[3.]~~ *4.* Before the ***board of trustees or the*** Department proceeds with consequences or sanctions, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 15. NRS 385.3762 is hereby amended to read as follows:

385.3762 1. On or before July 1 of each year, the Department shall determine whether each school district is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361. The pupils who are enrolled in a charter school, if any, located within a school district must not be included in the determination made for that school district. The determination made for each school district must be based only upon the

information and data for those pupils who were enrolled in the school district for a full academic year, regardless of whether those pupils attended more than one school within the school district for that academic year.

2. Except as otherwise provided in this subsection, the Department shall determine that a school district has failed to make adequate yearly progress if any ~~[subgroup]~~ ***group*** of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school district does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school district shall be deemed to have made adequate yearly progress even though a ~~[subgroup]~~ ***group*** of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school district did not satisfy the annual measurable objectives of the State Board.

3. In addition to the provisions of subsection 2, the Department shall determine that a school district has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school district who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school district who were required to take the examinations; or

(b) Except as otherwise provided in subsection 4, for each ~~[subgroup]~~ ***group*** of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils enrolled in the school district who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in the ~~[subgroup]~~ ***group*** who were required to take the examinations.

4. If the number of pupils in a particular ~~[subgroup]~~ ***group*** who are enrolled in a school district is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school district has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 3 based solely upon that particular ~~[subgroup.]~~ ***group.***

(b) The pupils in such a ~~[subgroup]~~ ***group*** must be included in the overall count of pupils enrolled in the school district who took the examinations.

➥ The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a ~~[subgroup]~~ ***group*** for that ~~[subgroup]~~ ***group*** to yield statistically reliable information.

Sec. 15.5. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;

(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation; and

(4) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by school districts and public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both. All school districts and public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the school district or school has made adequate yearly progress or failed to make adequate yearly progress. A school district or public school selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from school districts and public schools that desire to participate in the program.

(e) Prescribe accountability measures to be carried out by a school district or public school that participates in the program if that school district or public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of school districts and schools that participate; and

(2) Conditions for school districts and schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(f) Determine the amount of money that is available from the Account for those school districts and public schools that are selected to participate in the program.

(g) Allocate money to school districts and public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(h) Establish criteria for school districts and public schools that participate in the program and receive an allocation of money from the Account to

evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria identified in the plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(2) If applicable, the achievement of pupils enrolled in the school district as a whole, based upon measurable criteria identified in the plan to improve the achievement of pupils for the school district prepared pursuant to NRS 385.348;

(3) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff;

(4) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school district or the school is meeting the measurable objectives identified in the plan; and

(5) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to school districts and public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall comply with the requirements of subsection 1.

3. ***The Commission shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State*** . ~~*[, the academic needs of pupils, any special academic interests of pupils and any other special concerns of pupils, including, without limitation, schools that have a large population of Native Americans.]*~~

4. If a school district or public school that receives money pursuant to subsection 1 or 2 does not meet the criteria for effectiveness as prescribed in paragraph (h) of subsection 1 over a 2-year period, the Commission may consider not awarding future allocations of money to that school district or public school.

~~[4.]~~ ***5.*** On or before July 1 of each year, the Department shall provide a list of priorities of schools based upon the adequate yearly progress status of schools in the immediately preceding year for consideration by the Commission in its development of procedures for the applications.

~~[5.]~~ ***6.*** In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have

proven effective in improving the academic achievement and proficiency of pupils.

Sec. 16. NRS 385.391 is hereby amended to read as follows:

385.391 1. The Department shall adopt:

(a) Regulations to provide for the recognition of schools that:

(1) Receive a designation as demonstrating exemplary achievement or high achievement pursuant to NRS 385.3623.

(2) Significantly improve the academic achievement of ~~[subgroups]~~ ***groups*** of pupils identified in paragraph (b) of subsection 1 of NRS 385.361.

(3) Exceed adequate yearly progress, as determined by the Department pursuant to NRS 385.3613, for 2 or more consecutive years.

(b) Such regulations as it deems necessary to carry out the provisions of this section and NRS 385.3455 to 385.391, inclusive, including, without limitation, uniform standards for the type and format of data that must be submitted by the school districts and the time by which such data must be submitted.

2. The Department may work in consultation with the Bureau for identifying and publicizing the achievement of schools that are recognized pursuant to paragraph (a) of subsection 1.

Sec. 17. NRS 386.605 is hereby amended to read as follows:

386.605 1. On or before July 15 of each year, the governing body of a charter school ~~[that is sponsored by the board of trustees of a school district]~~ shall submit the information concerning the charter school that is required pursuant to subsection 2 of NRS 385.347 to the board of trustees ~~[that sponsors]~~ ***of the school district in which*** the charter school ***is located*** for inclusion in the report of the school district pursuant to that section. The information must be submitted by the charter school in a format prescribed by the board of trustees.

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by charter schools pursuant to this section and NRS 385.357, consult with the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 18. NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each ~~[subgroup]~~ ***group*** of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➥ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction but must not be used for the purpose of evaluating an individual teacher or paraprofessional.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(g) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(h) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 19. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347; ~~[and]~~

(d) ***The results of the assessment of needs conducted pursuant to subsection 6; and***

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, but not limited to, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, ~~[but not limited to,]~~ ***without limitation,*** the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money

appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. ***During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:***

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➥ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

~~[7.]~~ *9.* As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 20. NRS 389.018 is hereby amended to read as follows:

389.018 1. The following subjects are designated as the core academic subjects that must be taught, as applicable for grade levels, in all public schools, the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS:

(a) English, including reading, composition and writing;

(b) Mathematics;

(c) Science; and

(d) Social studies, which includes only the subjects of history, geography, economics and government.

2. ***Except as otherwise provided in this subsection, a pupil enrolled in a public high school must enroll in a minimum of:***

(a) Four units of credit in English;

(b) Four units of credit in mathematics, including, without limitation, Algebra I and geometry, or an equivalent course of study that integrates Algebra I and geometry;

(c) Three units of credit in science, including two laboratory courses; and

(d) Three units of credit in social studies, including, without limitation:

(1) American government;

(2) American history; and

(3) World history or geography.

➥ A pupil is not required to enroll in the courses of study and credits required by this subsection if the pupil, the parent or legal guardian of the pupil and an administrator or a counselor at the school in which the pupil is enrolled mutually agree to a modified course of study for the pupil and that modified course of study satisfies at least the requirements for a standard high school diploma or an adjusted diploma, as applicable.

3. Except as otherwise provided in this subsection, in addition to the core academic subjects, the following subjects must be taught as applicable for grade levels and to the extent practicable in all public schools, the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS:

(a) The arts;

(b) Computer education and technology;

(c) Health; and

(d) Physical education.

➥ If the State Board requires the completion of course work in a subject area set forth in this subsection for graduation from high school or promotion to the next grade, a public school shall offer the required course work. Unless a

subject is required for graduation from high school or promotion to the next grade, a charter school is not required to comply with this subsection.

Sec. 21. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection 2, based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English, including reading, composition and writing;

(2) Mathematics;

(3) Science;

(4) Social studies, which includes only the subjects of history, geography, economics and government;

(5) The arts;

(6) Computer education and technology;

(7) Health; and

(8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The Council shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The Council shall establish standards of content and performance for the grade levels selected by the Council for the other courses of study prescribed in subsection 1.

3. The ***Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:***

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

4. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board .

➥ ***The State Board*** shall adopt the standards of content and performance ~~[established by the Council.~~

~~4.]~~ ***or the revised standards, as applicable.***

5. The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.

Sec. 22. NRS 392.033 is hereby amended to read as follows:

392.033 1. The State Board shall adopt regulations which prescribe the courses of study required for promotion to high school, ~~[which]~~ ***including, without limitation, English, mathematics, science and social studies. The regulations*** may include the credits to be earned ~~[.]~~ ***in each course.***

2. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits required for promotion. ~~*[If a pupil is retained in grade 8 pursuant to this subsection and the pupil does not complete the course of study or credits required for promotion, the pupil shall complete a program of remedial study as required by the school district. If the pupil successfully completes the program of remedial study, the board of trustees shall promote the pupil to high school. If the pupil does not successfully complete the program of remedial study, he must be retained in grade 8 until he completes the course of study or credits required for promotion or successfully completes a program of remedial study.]*~~ The board of trustees of the school district in which the pupil is enrolled may ~~*[shall]*~~ provide programs *of remedial study* to complete the courses of study required for promotion to high school.

3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this State or from a school outside of this State.

4. The board of trustees of each school district shall adopt a policy that allows a pupil who has not completed the courses of study or credits required for promotion to high school to be placed on academic probation and to enroll in high school. A pupil who is on academic probation pursuant to this subsection shall complete appropriate remediation in the subject areas that he failed to pass. The policy must include the criteria for eligibility of a pupil to be placed on academic probation. A parent or guardian may elect not to place his child on academic probation but to remain in grade 8.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 385.3691 and 385.3692 are hereby repealed.

Sec. 25. (Deleted by amendment.)

Sec. 26. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $340,200 for the costs of a study to measure the alignment of class assignments given to pupils at selected grade levels with the standards of content and performance

established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520.

2. Before the Interim Finance Committee issues a request for proposals for a consultant to conduct the study, the Legislative Committee on Education shall select 100 public schools to participate in the study and the grade levels to be reviewed at each school. The schools must be elementary schools, middle schools and junior high schools and the grade levels selected must not include the ninth grade.

3. After selection of the public schools and grade levels by the Legislative Committee on Education, the Interim Finance Committee shall issue a request for proposals and enter into a contract with a qualified and independent consultant to conduct the study.

4. The consultant selected by the Interim Finance Committee shall, for each school selected by the Legislative Committee on Education, review a representative sampling of class assignments given to pupils for mathematics and English language arts at the selected grade levels and determine the alignment of those assignments with the standards of content and performance for those subject areas. For each school, the consultant shall report:

(a) The type of assignments that were reviewed, including, without limitation, homework, quizzes and tests;

(b) Whether the assignments were completed independently by pupils or in groups of pupils, or with the assistance of a teacher or aide;

(c) The source of the assignments, including, without limitation, textbooks and workbooks, created by the teacher or created by the school district;

(d) The grade levels of pupils subject to review;

(e) The percentage of the assignments that are aligned to the standards; and

(f) An assessment of the depth to which the standard is covered by the assignments.

5. The consultant shall prepare a written report of the results of the findings:

(a) For each school for submission to the principal of that school.

(b) For all schools that participate in the study for submission to the:

(1) Legislative Committee on Education;

(2) Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature;

(3) State Board of Education; and

(4) Department of Education.

6. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 26.5. **The Superintendent of Public Instruction shall:**

1. Prepare a plan for the reporting of the annual rate of pupils who drop out of school in grades 6 and 7 beginning in July 2011; and

2. Submit a report concerning the plan to the Director of the Legislative Counsel Bureau for transmittal to the 75th Session of the Legislature.

Sec. 27. The assessment of needs conducted by the Commission on Educational Technology pursuant to NRS 388.795, as amended by section 19 of this act, for the spring semester of 2008 must include, without limitation, an assessment of:

1. The need for computer-based assessments, including, without limitation, the use of computers for the administration of the high school proficiency examination;

2. The integration of educational technology to improve the achievement and proficiency of pupils; and

3. The feasibility and costs associated with using laptop computers in lieu of traditional textbooks.

Sec. 28. The provisions of section 20 of this act apply to pupils who are enrolled in grade 9 for the 2007-2008 school year and for each school year thereafter.

Sec. 29. This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTIONS

385.3691 Membership of technical assistance partnership.

1. The membership of each technical assistance partnership established by the board of trustees of a school district for a public school pursuant to NRS 385.3661:

(a) Must consist of:

(1) At least one employee of the public school for which the partnership is established; and

(2) At least one representative of the school district.

(b) May consist of other persons, as determined by the board of trustees, in accordance with the needs of the school based upon the data and information pertaining to that school.

2. The membership of each technical assistance partnership established by the governing body of a charter school:

(a) Must consist of:

(1) At least one employee of the charter school;

(2) At least one member of the governing body of the charter school;

(3) For a charter school sponsored by the board of trustees of the school district, at least one representative of the school district, appointed by the school district; and

(4) For a charter school sponsored by the State Board, at least one representative of the Department, appointed by the Department.

(b) May consist of other persons, as determined by the governing body, in accordance with the needs of the charter school based upon the data and information pertaining to that charter school.

385.3692 Powers and duties of technical assistance partnership; completion and submission of form concerning review and analysis of school; Department required to prescribe form for use by partnership.

1. Each technical assistance partnership established for a public school shall complete a form prescribed by the Department pursuant to this section or an expanded form, if applicable, that includes:

(a) A review and analysis of the operation of the school, including, without limitation, the design and operation of the instructional program of the school;

(b) A review and analysis of the data pertaining to the school based upon the report required pursuant to subsection 2 of NRS 385.347 and a review and analysis of any data that is more recent;

(c) A review of the most recent plan to improve the achievement of the school's pupils; and

(d) An identification of the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

2. Each technical assistance partnership established for a public school shall:

(a) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school; and

(b) Adopt, in consultation with the employees of the school, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Include the data and findings of the technical assistance partnership that provide support for the revisions;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the technical assistance partnership, outside experts;

(3) Set forth a timeline to carry out the revisions;

(4) Set forth priorities for the school in carrying out the revisions; and

(5) Set forth the names and duties of each person who is responsible for carrying out the revisions.

3. On or before November 1 of each year, each technical assistance partnership shall submit the form completed pursuant to subsection 1 to the:

(a) Department;

(b) Bureau;

(c) Board of trustees of the school district or governing body of the charter school, as applicable; and

(d) Principal of the school.

4. The Department shall, in consultation with the Bureau:

(a) Prescribe a form that contains the basic information for a technical assistance partnership to carry out its duties pursuant to subsection 1; and

(b) Make the form available on a computer disc for use by technical assistance partnerships and, upon request, in any other manner deemed reasonable by the Department.

5. Except as otherwise provided in this subsection, each technical assistance partnership shall use the form prescribed by the Department to carry out its duties pursuant to subsection 1. A school district or governing body of a charter school may prescribe an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

6. A technical assistance partnership may require the school for which the partnership was established to submit plans, strategies, tasks and measures that, in the determination of the partnership, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

Assemblywoman Parnell moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 184.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 4, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day sustained the Governor's veto of Assembly Bill No. 364 of the 74th Session.

SHERRY L. Rodriguez
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, June 5, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 563.

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 629.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 280, Amendment No. 1173; Assembly Bill No. 434, Amendment No. 1171; Assembly Bill No. 553, Amendment No. 1179; Assembly Bill No. 565, Amendments Nos. 1138, 1175, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolutions Nos. 35, 36.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 619.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 1157 to Senate Bill No. 185; Assembly Amendments Nos. 1146, 1147 to Senate Bill No. 437; Assembly Amendment No. 1163 to Senate Bill No. 443; Assembly Amendment No. 1168 to Senate Bill No. 471; Assembly Amendment No. 1150 to Senate Bill No. 476.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

REMARKS FROM THE FLOOR

Assemblyman Oceguera moved that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

One hundred and twenty days ago, we convened in this chamber for the first time as the 2007 Nevada Assembly. Like all opening days, it was an event marked by traditions and history, energy and optimism, speeches, and ceremony. We were dressed in our finest. We brought our families and friends to share that small moment of history. Some of us were new to this chamber—others, seasoned veterans. But to a man and to a woman, we all had high hopes, ambitious goals, and a determination to do what was right for this State.

Four months have passed. Those who were once freshmen, are no longer. If we have families with us tonight, they have been waiting less than patiently for us to conclude our business and come home. Our clothes no longer look quite as fresh and pressed as they did on February 5. In fact, if you did not participate in my Legislative Wellness program, those clothes might not fit as well as they did four months ago.

And although *sine die* is every bit as historical and ceremonious as opening day, our speeches tonight are probably a little less formal than they were four months ago. Let's hope they are shorter. To that end, let me say just a few words about what we have accomplished these last 120 days, with all of our opening day hopes, goals, and determination. First of all, we have finished our work within our constitutionally mandated deadline, the first time this Legislature has done so since 1999. Every session is different, so it is not as simple as saying that we worked harder or smarter than previous legislatures. But I think we can say that we have worked hard, and we have worked smart, and the issues we faced in 2007 were no less challenging than those faced in previous sessions. And so let's give our Speaker a hand for keeping us on task and on time. I would also like to thank our hardworking committee chairs. Without them we could not have finished within our voter-mandated deadline. Together, we processed hundreds of bills on such topics as transportation, education, health care, public safety, and energy. We enacted consumer protection laws for medical debt collection, mortgage practices, and payday loans. We tackled the methamphetamine problem, identity theft, and other public safety issues. We balanced the budget but still managed to find more money for roads and more money for classrooms. We expanded full-day kindergarten, gave our teachers a raise, and provided money for more career and technical education.

This was my first session as Majority Leader. I know I had some fairly daunting shoes to fill. I was honored to have been given this opportunity by Speaker Buckley, and I am grateful to my colleagues for their confidence in me, as well. To my colleague across the aisle, the Minority Floor Leader, my thanks for your professionalism and courtesy. We have not always agreed on issues, but we have always worked hard, as we saw fit, for the best interests of this State. I would like to extend a special thanks to the Assistant Majority Leader, who also served as my vice chairman on the Commerce and Labor Committee. There is no question that without his help in both those roles, I would not have been able to do the job that I did. I could go around the chamber and thank each and every one of you—my colleagues, our staff, and my friends. But we all want to go home.

Let me close with a look back at that day, four months ago, when I had the privilege to nominate Barbara Buckley as Speaker of the Nevada Assembly. You might remember that I had some fairly high expectations of our new Speaker. I compared her to some of the giants of Nevada political history. I said I fully expected her to walk along side those giants and then we gave her a very large gavel.

After four months, it is pretty clear that Speaker Buckley does not need a big gavel. She leads this chamber with equal parts of grace and gumption, compassion and commitment. She is, simply put, a leader. We are fortunate, and Nevada is fortunate, to have her at the helm of the "People's House."

Madam Speaker, thank you for giving me the opportunity to serve as your Majority Leader. On behalf of my 40 colleagues in this chamber, thank you for your service to the people of this State.

ASSEMBLYMAN MABEY:

Thank you, Madam Speaker. I was not prepared to give a speech. I was here in the 2003 Session, and there were not many speeches given at the close. In 2005, we ran out of time. I did not prepare this but I think I will try to use that old cowboy maxim of Mr. Carpenter's, which is "to think quickly and speak slowly." It is an honor to have served here as the Minority Leader. I have a lot of respect for you, Madam Speaker. Mr. Majority Leader, it was a pleasure. It is amazing how in this state someone like a country doctor, such as myself, can come up here and serve. There are teachers, attorneys, and whatever else we are. That is what makes our state great.

I remember every time I fly down or fly up and look out the window of the plane. We have a wonderful state, and I am proud of it. I am grateful for the opportunity I had to serve. I am especially grateful for my caucus and for those who have served. It is not always easy being the minority. It is a difficult circumstance at times because we have to weigh our vote and wonder what will happen, what are the repercussions. I can tell you our caucus votes with their conscience. I am proud of them. I am proud to have been here. Thank you. I hope we finish on time, too.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. We have served together seven terms here. A lot of times, you were chairman of some committees. We got along without you in Judiciary, but it was not easy, was it, Bernie? I just wanted to say thank you and congratulations. You did keep this well-oiled machine on course, and we are going to make it out of here. I am so grateful because I am going to be able to head home to Elko and have great memories of this session. I want to thank you so much. I want to also thank the Majority Leader. A couple of times we did not agree. Most of the times, however, we did agree. I think you have done a great job here, and I really appreciate you and thank you.

ASSEMBLYMAN BEERS:

Thank you, Madam Speaker. I really appreciate how you ran this session for a freshman, such as myself. It definitely has been an enjoyable experience. I did have a song prepared, but I have not been told I can do it. So I wanted to make a little presentation instead. We have a special member of this Assembly, a neighbor of mine who has earned a special award. Lynn Stewart, if you could please stand. He has earned the special loving cup as the "Conference Committee Champion" of 2007.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Every session, we close the same way. We have not slept very well for the past couple of months. Some of us have eaten a little too much, something we worked on did not pass or did not pass the way we wanted it to, someone along the way truly irritated us. But now is the time to let minor irritations go. It is time to reflect back on the session and on what is important.

I do not believe there is anyone here among us who would deny what an honor it is to be chosen by our neighborhoods and districts to be their representative in Nevada's democratic process. Most of us never imagined that we would be given the privilege to serve our state.

What did we accomplish this session? Let's look at some of the highlights so we can cast aside the irritations that all sessions bring. In education, we raised pay for teachers 2 percent next year and 4 percent the following year. We created $10 million for Clark, Washoe, and Lyon Counties to begin a pilot program to reward teachers who produce extraordinary results. We allocated $15 million to expand full-day kindergarten from the current 114 schools to an additional 63 at-risk schools—virtually every at-risk school in the state. We began the process of high school reform and appropriated $8 million over the biennium to career and technical education and courses that will interest high school students and perhaps prevent them from dropping out. We expanded the Clark County empowerment school pilot project. It was very similar to what we did with Senate Bill 404 of the 73rd Session in letting schools decide what they need to achieve. We appropriated additional money to the Gifted and Talented Program—a program many of us support strongly. We appropriated money for programs for alternative

placement for disruptive students, earmarked LEED savings for teacher salaries and funding for important after-school programs like Community and Schools, the After School All-Stars, and Save the Children for the rural communities.

The most important fact of all is that despite our individual policy differences on education, this Assembly looked at the fact that Nevada was last in the nation in K-12 per-pupil school funding, and we refused to accept a status quo budget. We are responsible for fighting for and securing these programs that we can be proud of and that will benefit all of our constituents. We increased per-pupil expenditures from $4,696 to $5,122 next year and $5,323 the following year—an additional 13 percent increase in spending for our children.

In health care, we always top the bad lists, of which we are quite ashamed. However, this session we increased the number of children we will provide health insurance for and the number of middle-class pregnant women who will receive health insurance as well. It is ironic that the working middle-class cannot afford a doctor to deliver a baby. We expanded the subsidy for small business employers, and we are starting a program in conjunction with our Chambers of Commerce to reach out to small business and help them find health insurance.

We increased the budget for mental health and social services and gave a raise to poor children by increasing Temporary Assistance for Needy Families (TANF) payments for the first time in over a decade. We helped Nevadans control their medical costs by creating a website to allow consumers to compare the costs of drugs so those who do not have insurance or cannot afford prescription drugs can find where the best prices are. Hopefully, we are passing a bill on medical health transparency so consumers can know how the places they choose to receive medical care rank. We limited hospital debt and eliminated some abusive collection practices that were happening with hospital debt. We created a volunteer emergency medical services fund to help those services in rural areas of Nevada. We updated our Good Samaritan law, paved the way for retired physicians to provide medical care to the needy, and required insurers with information about an applicant's potentially serious medical condition to notify the applicant of the condition. All of these projects will serve to increase the well-being of Nevadans.

On energy and the environment, we passed bills to raise the net-metering cap to allow and encourage people to generate their own electricity and sell it back to all of us. We created broad incentives for geothermal energy that increase energy efficiency. We expanded last year's solar demonstration project and continued our position on renewable energy since we have so much—the sun, the wind, and geothermal. Our commitment to environmental quality was also demonstrated in our new laws to conserve water and to protect our state's air and water quality. We fixed a bill that was intended to encourage "green" commercial construction so it will not bankrupt our state.

We passed so much legislation on consumer protection, everything from my own favorite of curbing the high-interest loan abuses to others that stop mortgage lending abuses and hard-money lending scams. We also are beginning the process of inventorying all existing affordable and attainable housing so that we can start the long-term planning process, and we did not forget Nevada's youngest nor our oldest.

We created a task force at the Attorney General's Office to combat elder abuse and senior financial exploitation. We ordered child and adult care facilities to provide information concerning complaints and disciplinary measures so we can weed out who is doing a good job and who is not. We told child welfare agencies that it is the policy of the State that if you take a young child from his home, you should find another home for that child, not place him in an institution. We made significant changes to the manner in which child fatality reviews are conducted to make sure the public has the information anytime a child dies within our care. We passed laws to help the State's struggling child support enforcement system and criminalized paternity fraud. We even increased child safety by raising the age when children are required to wear life preservers.

In law enforcement, similarly, we made significant strides. We gave them more tools to combat the blight of graffiti. We refined many of our criminal statutes including laws related to luring children, and we expanded the genetic marker testing of convicts. We further expanded provisions relating to protection orders against domestic violence, and we fought hard to eradicate the scourge of methamphetamine and the evils that it has left across our state. We passed laws limiting the sale of precursor drugs, monitoring prescriptions of controlled

substances, and most importantly, providing funding for treatment. Methamphetamine use is one list that we must stop leading.

Also, we made significant inroads on prison reform. I think everyone agrees that we need to reserve our beds for the violent offenders, the repeat offenders, and the sexual predators, and we need to be smarter on crime. That is what we did this session. Through certain intervention programs and more treatment, we are looking at trying to keep drug offenders and minor offenders out of our prisons, yet not letting them out on the street to commit crimes.

We made progress on transportation. Although, certainly all of us are not satisfied with what we did in terms of doing enough, we did not fall short. We were committed to action this session, and that is what we accomplished. Although Assembly Bill 595 is not a total solution, it ensures that the state's most critical projects will continue and gives us the time needed to gain consensus for an overall solution to our long-term road problems.

On ethics, we were confronted with results that show politicians rated lower in public esteem than used-car dealers, and this body tried to implement comprehensive ethics reform for the politicians and lobbyists of the State. Now, limited liability companies who give political donations must disclose the identities of those donors, and contributions for local defense funds are limited and subject to disclosure so that all transactions must take place in the sunshine.

Of course, there were many more laws passed dealing with domestic relations, improvement districts, natural resources, or you name it—laws that address the specific concerns of our constituents. As I look across this floor, every single one of you is responsible, in some manner, for all of the bills that I read.

These are not just Democratic bills or Republican bills, they are Nevadan bills. It took a strong, bipartisan effort to accomplish these things. So whether you were one of the many sponsors of the bills I named or whether you helped by participating in a committee hearing through questioning, you helped become part of this great democratic process.

I think each of us can take pride in our joint legislative accomplishments. I know we are anxious to leave, and it would take too long to individually list everyone's accomplishments, but I want to especially acknowledge a few members of my leadership team and my committee chairs who did such an incredible job this session. When people ask me "How have you managed to have a successful session?" I say, "It is due to every legislator, and especially the leadership team and our committee chairs."

First, my Majority Leader, John Oceguera. You did a tremendous job coordinating this effort. I am so proud of you and so pleased at the job you have done this session. Thank you for living up to all of my expectations and more.

Also, I would like to thank our Assistant Majority Leader, Marcus Conklin, who does such an incredible job. No one, I believe, works on more bills in terms of quantity or tries to put out more fires than Marcus. You two together—for the method and manner that you got our work done this session, your professionalism, your intellect, and your collegiality—we thank you so much, Marcus, for the job that you have done this session. I do not know what they are talking about; I understand every word you say. Some people say he talks too fast. Certainly, in addition to your leadership duties, the job that you have done with Commerce and Labor deserves thanks as well—the incredible volume of bills, the least amount of hearing dates, the most amount of bills, shepherding them through the hearing process, weeding out the bad from the good—it requires tenacity and patience, qualities that both of you demonstrated in your leadership of the Committee on Commerce and Labor. It was great chairmanship and great vice chairmanship.

Next, I would like to thank Bernie Anderson, my Speaker pro Tempore. The hard work, number of bills that go to the Committee on Judiciary, and the demands placed make it overwhelming. Bernie maintains his committee, maintains control on all of his bills, and also manages the "Woodshed" to keep lobbyists and legislators in line. Also, he reminds us to pay homage to Dr. Seuss every year and to read to children. Most of all, some people think Bernie is a little grumpy, but when I look at Bernie Anderson, I see the man I want next to me in a foxhole—someone who would give me the shirt off his back, who cries when we lose a Nevada soldier, who cares about public policy, who loves the political process, and who misses teaching children the great things about our political process. You have done an awesome job, as you always do, Bernie, and I am glad you are my friend. Thank you.

I would also like to thank Sheila Leslie, my Majority Whip. Sheila holds the torch for those who are most vulnerable in Nevada, whether it is the issues of homelessness, mental illness, health care, or you name it. Sheila works hard, understands every issue, and fights to the end for those who need help. She is smart and hardworking. She is an incredible vice chair, an incredible member of our leadership team, and without Sheila, I do not know what we would have done on any of these issues. Thank you, Sheila.

I need to thank a couple more of my chairmen. I would like to start with Bonnie Parnell. Everybody loves Bonnie Parnell in the Committee on Education. She keeps such good control of that committee, she knows the issues inside and out, and she is respected by everybody who meets her. Bonnie, you did a tremendous job again with the Committee on Education. We can rely on you to handle any issue. We appreciate you, and thank you for such an incredible session.

While we have a long way to go in school funding, we have begun to climb out of the nation's education funding cellar, due in part to the spectacular leadership of our Committee on Ways and Means. Who better than a man named "Moose" to hold the line against special interest spending while soldiering on behalf of those in our state who need the money. What a tremendous session you have had. It has been great to have you back in the game. Assemblyman Morse Arberry, my thanks to you.

Kelvin Atkinson and his committee shouldered the burden and the press commentary to get us started on the very unpopular journey of forcing people and the businesses of this state to decide how we will pay for what we all want, uncongested and well-maintained roads. At the end of a very, very difficult session on transportation, you are about the only one standing and the only one grinning. Thank you, Kelvin, for all you have done.

Marilyn Kirkpatrick, what a tremendous job you have done as our freshman chair of Government Affairs. No one would ever know, looking at you, the way you went through the intricacies, the policies, the personalities and treated people fairly, but cut them off when they really were not saying anything. We owe you a debt of gratitude for all the work that you and Assemblywoman Smith, our dynamic duo, did on the LEED bill this session. Thank you.

Dave Parks and his committee set a policy for the state that is both rational and economically efficient, establishing new prisons to house violent offenders and sex offenders and alternatives for first-time nonviolent offenders. I think it was the hardest job of all, wading through all those disparate interests to come up with a package recommended by the Council of State Governments and Jim Austin to give us a blueprint on where we are going on prison policy. Talk about a thankless job at times—when I would watch some of your hearings on television, with all of the different folks you had testifying—yet you handled it with grace and came out with a policy that this entire Legislature can be proud of. Thank you, Mr. Parks.

Kathy McClain and her committee tenaciously protected the public purse and yet honored Nevada's military members by enacting tax relief for them and their families. For your tenacious advocacy for veterans and seniors, and running a tip-top ship in the Committee on Taxation, leaving us saying that we did not raise any taxes yet we have a balanced budget, we thank you.

After a year of scandal and shame, Ellen Koivisto and her committee passed bills intended to restore the public trust in elected officials. Some of her efforts got a cool reception on the other side of the building, but we will fight that fight again, and we can be proud of the reform that we did pass due to your leadership. Thank you, Ellen.

Meanwhile, Harry Mortenson got to work on all the sexy issues involving the *Constitution*. Aren't we all excited about eminent domain? Between that and the lottery, Harry had a lot to deal with this session, but he did it well and we ended up with some good constitutional measures for the folks to consider, and we appreciate all that you have done for us, Mr. Mortenson.

Jerry Claborn and his committee continued their vigilant stewardship of our natural resources in this state while preserving the right for all of us to enjoy the natural beauty and wildlife that exists here. That committee considered every animal known to mankind. We enjoy the way you advocate for what you believe in and we appreciate your stewardship and experience and the great job you did this session. Jerry, thank you very much for being a part of our team.

I would also like to thank Susan Gerhardt for her work on child welfare. There really has been no issue that has affected me more than the situation in Clark County on child welfare, with

children dying in our care and the reforms that came out of that with the Blue Ribbon Task Force and all of the measures we passed this session including an incredible increase in funding to improve the lives of our children. For carrying all of that forward and seeing it through this session, I want to thank you very much.

We know that our work is not done. We have more to do for education, for health care, for ethics, and for prison reform. The list goes on and on, but we can take a step back and celebrate and acknowledge all of the efforts on all of the measures that will make our state a better place. Without a doubt, this session has been exciting, exhausting, and one of the most rewarding experiences of my life. I thank all of you for giving me the privilege and the honor to serve as Speaker for my first time. I will cherish forever the fact that I was the first woman to hold this role, all the while knowing that I will not be the last.

With that, I want to thank you and appreciate and acknowledge all of the things that all of you have done to contribute to this legislative session. Thank you.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I rise in support of the freshman class of the 74th Legislative Session, a bipartisan group that has done an extremely great job here. I would like to just make a few comments on what I have observed as the oldest freshman and someone who is old but new to this beautiful building. When I first got here, I was astounded. I had a female Speaker, three chairwomen; I felt right at home because my mother-in-law lived with us. I learned as a freshman you win some and you lose some, and you lose some, and you lose some. When my funeral bill got buried, I was comforted by Mr. Carpenter with one of his cowboy sayings. "Sometimes you get, and sometimes you get got." I live in the beautiful Plaza Hotel. As I walk to the Assembly every morning, I come through the front door and I get a little catch in my throat when I walk through that door. When I come here into the chamber, I think, "What are you doing here? You do not deserve to be here with these wonderful people." I have enjoyed so much working with all of you, Madam Speaker. You have done such a tremendous job. The Majority Leader, the Minority Leader, and all of my freshmen colleagues, I sincerely hope we can all get back together again. I would like to give a special thanks to my colleague from District No. 6. He has taught me so much. The cowboy saying is, "You should think quickly and talk slowly." Harvey taught me that if you cannot think really quickly, clear your throat and it gives you time to think.

I have enjoyed so much being here with you all. I sincerely appreciate this body. I look up there at Abraham Lincoln—who was one of my students—at his portrait hanging above the Speaker's podium, and I think about being so glad to be here. Thank you again for this opportunity. I love you all, sincerely. I love the cowboys, I love my freshmen Democrats and even some of you older Democrats. I would like to give a special thanks to my colleague from District No. 21 for this beautiful trophy. I will treasure it always. A special thanks to my colleague from District No. 20. He has been like a big, older brother who is younger to me. I thank him very much. Thank you very much for the opportunity to have been here.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 13, 144, 158, 161, 165, 186, 202, 232, 273, 469, 483, 510, 585, 591, 595, 604, 621; Senate Bills Nos. 186, 189, 253, 352, 380, 422, 444, 455, 458, 461, 464, 499, 544 and 570.

MOTIONS, RESOLUTIONS AND NOTICES

Madam Speaker appointed Assemblymen Oceguera, Conklin, and Mabey as a committee to wait upon His Excellency, Governor Jim Gibbons, Governor of the State of Nevada, and to inform him that the Assembly was ready to adjourn *sine die*.

Madam Speaker appointed Assemblymen Anderson, Leslie, and Gansert as a committee to wait upon the Senate and to inform that honorable body that the Assembly was ready to adjourn *sine die*.

A committee from the Senate, consisting of Senators Cegavske, Heck, and Woodhouse, appeared before the bar of the Assembly and announced that the Senate was ready to adjourn *sine die*.

Assemblyman Anderson reported that his committee had informed the Senate that the Assembly was ready to adjourn *sine die*.

Assemblyman Oceguera reported that his committee had informed the Governor that the Assembly was ready to adjourn *sine die*.

Assemblyman Oceguera moved that the Seventy-Fourth Session of the Assembly of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried.

Assembly adjourned at 1:59 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly