

# NEVADA LEGISLATURE

Seventy-Third Session, 2005

---

## ASSEMBLY DAILY JOURNAL

---

### THE ONE-HUNDRED AND FIFTEENTH DAY

CARSON CITY (Wednesday), June 1, 2005

Assembly called to order at 12:25 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Imam Salem Mohammed.

Almighty God, our Maker and our Sustainer, guide us to the straight path. Show us truth in a clear way, and enable us to follow it, and defend it. Show us falsehood in an unmistakable way, and enable us to avoid it, and reject it. Almighty God, who taught all prophets and messengers, teach us from Your infinite knowledge; instill in our hearts the wisdom You instilled in theirs, and make it our guide in life. Almighty God, bless our nation, our leaders, and lawmakers in this Assembly with the best of Your guidance.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

#### REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Government Affairs, to which was referred Assembly Bill No. 568, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID PARKS, *Chairman*

*Mr. Speaker:*

Your Concurrent Committee on Ways and Means, to which were referred Assembly Bills Nos. 77 and 464, 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, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2005

*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. 526, Amendment No. 1056, 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. 51, Senate Amendment No. 801, and requests a conference, and appointed Senators Washington, Nolan and Care as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 390.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment Nos. 930, 1073 to Senate Bill No. 32; Assembly Amendment No. 886 to Senate Bill No. 41; Assembly Amendment Nos. 816, 1020 to Senate Bill No. 64; Assembly Amendment No. 824 to Senate Bill No. 83; Assembly Amendment No. 760 to Senate Bill No. 134; Assembly Amendment No. 940 to Senate Bill No. 146; Assembly Amendment No. 887 to Senate Bill No. 150; Assembly Amendment No. 873 to Senate Bill No. 155; Assembly Amendment No. 857 to Senate Bill No. 172; Assembly Amendment No. 1022 to Senate Bill No. 214; Assembly Amendment No. 855 to Senate Bill No. 234; Assembly Amendment No. 997 to Senate Bill No. 235; Assembly Amendment Nos. 907, 1090 to Senate Bill No. 262; Assembly Amendment No. 1066 to Senate Bill No. 267; Assembly Amendment No. 854 to Senate Bill No. 287; Assembly Amendment No. 717 to Senate Bill No. 293; Assembly Amendment No. 1080 to Senate Bill No. 343; Assembly Amendment Nos. 796, 1031 to Senate Bill No. 347; Assembly Amendment No. 786 to Senate Bill No. 411; Assembly Amendment No. 826 to Senate Bill No. 415; Assembly Amendment No. 910 to Senate Bill No. 421; Assembly Amendment No. 754 to Senate Bill No. 422; Assembly Amendment No. 882 to Senate Bill No. 432; Assembly Amendment No. 956 to Senate Bill No. 444; Assembly Amendment No. 814 to Senate Bill No. 450; Assembly Amendment No. 795 to Senate Bill No. 452; Assembly Amendment No. 943 to Senate Bill No. 458; Assembly Amendment No. 1005 to Senate Bill No. 466; Assembly Amendment No. 993 to Senate Bill No. 488; Assembly Amendment No. 955 to Senate Bill No. 489.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment Nos. 903, 1093 to Senate Bill No. 20; Assembly Amendment No. 1041 to Senate Bill No. 198; Assembly Amendment No. 929 to Senate Bill No. 212; Assembly Amendment No. 928 to Senate Bill No. 221; Assembly Amendment Nos. 942, 1042 to Senate Bill No. 296; Assembly Amendment No. 905 to Senate Bill No. 302; Assembly Amendment No. 1097 to Senate Bill No. 328; Assembly Amendment No. 815 to Senate Bill No. 338; Assembly Amendment No. 838 to Senate Bill No. 367; Assembly Amendment No. 889 to Senate Bill No. 426.

MARY JO MONGELLI  
*Assistant Secretary of the Senate*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF WAIVER

A Waiver requested by Assemblyman Bob Seale.

For: Assembly Bill No. 570.

To Waive:

Subsections 1 and 2 of Joint Standing Rule No. 14 and Joint Standing Rule Nos. 14.2 and 14.3 (all of the above).

Has been granted effective: May 31, 2005.

WILLIAM J. RAGGIO  
*Senate Majority Leader*

RICHARD D. PERKINS  
*Speaker of the Assembly*

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 390.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 50.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Assembly Bill No. 50:

YEAS—42.

NAYS—None.

Assembly Bill No. 50 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 98.

Bill read third time.

Roll call on Assembly Bill No. 98:

YEAS—42.

NAYS—None.

Assembly Bill No. 98 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Leslie moved that Assembly Bill No. 460 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblywoman Buckley.

Motion carried.

Assemblyman Parks moved that Senate Bill No. 107 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Parks.

Motion carried.

Assemblywoman Buckley moved that Assembly Bill No. 499 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Buckley moved that Assembly Bill No. 500 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 500.

Bill read third time.

The following amendment was proposed by the Assemblywoman Giunchigliani:

Amendment No. 1128.

Amend the bill as a whole by adding a new section designated sec. 40.5, following sec. 40, to read as follows:

“Sec. 40.5. NRS 281.4365 is hereby amended to read as follows:

281.4365 1. “Public officer” means a person elected or appointed to a position which is established by the Constitution of the State of Nevada, a statute of this State or an ordinance of any of its counties or incorporated cities and which involves the exercise of a public power, trust or duty. As used in this section, “the exercise of a public power, trust or duty” means:

(a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

(b) The expenditure of public money; and

(c) The ~~enforcement~~ *administration* of laws and rules of the State, a county or a city.

2. “Public officer” does not include:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a board of trustees for a general improvement district or special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or

(d) A county health officer appointed pursuant to NRS 439.290.

3. “Public office” does not include an office held by:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a board of trustees for a general improvement district or special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or

(d) A county health officer appointed pursuant to NRS 439.290.”.

Amend the bill as a whole by deleting sections 41 through 51 and adding:

“Secs. 41-51. (Deleted by amendment).”.

Amend the title of the bill by deleting the fourteenth through eighteenth lines and inserting: “the provisions governing requests for bill drafts made by Legislators; revising the definition of “public officer” for the purposes of the Nevada Ethics in Government Law; providing a civil penalty; and providing other”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

Bill ordered reprinted, re-engrossed, and to third reading.

Assembly Bill No. 499.

Bill read third time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 1127.

Amend sec. 6, page 3, by deleting lines 3 through 6 and inserting:

*“2. A district attorney has concurrent jurisdiction to investigate and prosecute a person who is alleged to have violated a provision of NRS 293.1755, 293.504, 293.5045, 293.505, 293.5235, subsection 1, 4 or 5 of NRS 293.800 or NRS 293.805, 293.810 or 293C.200.”*

Amend the bill as a whole by renumbering sections 14 and 15 as sections 23 and 24 and adding new sections designated sections 14 through 22, following sec. 13, to read as follows:

“Sec. 14. NRS 294A.410 is hereby amended to read as follows:

294A.410 1. ~~[Except as otherwise provided in NRS 294A.345 and 294A.346, if]~~ If it appears that the provisions of this chapter have been violated, the Secretary of State may:

(a) Conduct an investigation concerning the alleged violation and cause the appropriate proceedings to be instituted and prosecuted in the First Judicial District Court; or

(b) Refer the alleged violation to the Attorney General. The Attorney General shall investigate the alleged violation and institute and prosecute the appropriate proceedings in the First Judicial District Court without delay.

2. A person who believes that any provision of this chapter has been violated may notify the Secretary of State, in writing, of the alleged violation. The notice must be signed by the person alleging the violation and include any information in support of the alleged violation.

Sec. 15. NRS 281.461 is hereby amended to read as follows:

281.461 1. The Commission shall:

(a) At its first meeting and annually thereafter elect a Chairman and Vice Chairman from among its members.

(b) Meet regularly at least once in each calendar quarter, unless there are no requests made for an opinion pursuant to NRS 281.511, ~~[294A.345 or 294A.346,]~~ and at other times upon the call of the Chairman.

2. Members of the Commission are entitled to receive a salary of not more than \$80 per day, as fixed by the Commission, while engaged in the business of the Commission.

3. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. The Commission may, within the limits of legislative appropriation, maintain such facilities as are required to carry out its functions.

Sec. 16. NRS 281.4635 is hereby amended to read as follows:

281.4635 1. In addition to any other duties imposed upon him, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281.511 . [~~294A.345 or 294A.346.~~]

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the panel appointed pursuant to NRS 281.462 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that he considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that he is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of his duties relating to:

(a) The administration of the affairs of the Commission;

(b) The review of statements of financial disclosure; and

(c) The investigation of matters under the jurisdiction of the Commission.

Sec. 17. NRS 281.465 is hereby amended to read as follows:

281.465 1. The Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of ~~the~~

~~(a) This~~ *this* chapter by a public officer or employee or former public officer or employee in any proceeding commenced by:

~~(1)~~ (a) The filing of a request for an opinion with the Commission; or

~~(2)~~ (b) The Commission on its own motion.

~~(b) NRS 294A.345 or 294A.346 in any proceeding commenced by the filing of a request for an opinion pursuant thereto.~~

2. The provisions of ~~paragraph (a) of~~ subsection 1 apply to a public officer or employee who:

(a) Currently holds public office or is publicly employed at the commencement of proceedings against him.

(b) Resigns or otherwise leaves his public office or employment:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the alleged violation or reasonable discovery of the alleged violation.

Sec. 18. NRS 281.475 is hereby amended to read as follows:

281.475 1. The Chairman and Vice Chairman of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or public employee who is the subject of a request for an opinion, the Chairman or, in his absence, the Vice Chairman, may issue a subpoena to compel the attendance of a witness and the production of books and papers.

3. Before issuing a subpoena to a public officer or public employee who is the subject of a request for an opinion, the Executive Director shall submit a written request to the public officer or public employee requesting:

(a) His appearance as a witness; or

(b) His production of any books and papers relating to the request for an opinion.

4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or public employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or public employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chairman may issue the subpoena. Failure of the public officer or public employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or public employee of the time set forth in subsections 3 and 4 of NRS 281.511.

5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chairman of the Commission 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 Commission 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 Commission, 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 Commission.

6. ~~{Except as otherwise provided in this subsection, upon}~~ Upon such a petition, 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 then and there show cause why he has not attended, testified or produced the books or papers before the Commission. ~~{If the witness has been subpoenaed by the Commission in response to a request for an opinion filed pursuant to NRS 294A.345 or 294A.346, the court shall direct the witness to appear before the court as expeditiously as possible to allow the Commission to render its opinion within the time required by NRS 281.477.}~~ A certified copy of the order must be served upon the witness.

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 19. NRS 281.521 is hereby amended to read as follows:

281.521 ~~{1.}~~ The Commission's opinions may include guidance to a public officer or employee on questions whether:

~~{(a)}~~ 1. A conflict exists between his personal interest and his official duty.

~~{(b)}~~ 2. His official duties involve the use of discretionary judgment whose exercise in the particular matter would have a significant effect upon the disposition of the matter.

~~{(c)}~~ 3. The conflict would materially affect the independence of the judgment of a reasonable person in his situation.

~~{(d)}~~ 4. He possesses special knowledge which is an indispensable asset of his public agency and is needed by it to reach a sound decision.

~~{(e)}~~ 5. It would be appropriate for him to withdraw or abstain from participation, disclose the nature of his conflicting personal interest or pursue some other designated course of action in the matter.

~~{2. Except as otherwise provided in NRS 281.477, 294A.345 and 294A.346, the Commission's opinions may not include guidance to a public officer or employee on questions regarding the provisions of chapter 294A of NRS.}~~

Sec. 20. NRS 281.551 is hereby amended to read as follows:

281.551 1. In addition to any other penalty provided by law, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed \$5,000 for a first willful violation of this chapter;

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.



2. In addition to other penalties provided by law, the Commission may impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281.511 ~~[ ]~~ against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization by another person of a financial benefit, the Commission may, in addition to other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. ~~[In addition to any other penalty provided by law, by an affirmative vote of two thirds of the Commission, the Commission may impose on any person who violates any provision of NRS 294A.345 or 294A.346 a civil penalty not to exceed \$5,000. The Commission shall not impose a civil penalty for a violation of NRS 294A.345 unless the Commission has made the specific findings required pursuant to subsection 7 of NRS 281.477.~~

~~5.]~~ If the Commission finds that:

(a) A willful violation of this chapter has been committed by a public officer removable from office by impeachment only, ~~[it]~~ *the Commission* shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.

(b) A willful violation of this chapter has been committed by a public officer removable from office pursuant to NRS 283.440, the Commission may file a proceeding in the appropriate court for removal of the officer.

(c) Three or more willful violations have been committed by a public officer removable from office pursuant to NRS 283.440, the Commission shall file a proceeding in the appropriate court for removal of the officer.

~~[6.]~~ 5. An action taken by a public officer or employee or former public officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505 is not a willful violation of a provision of those sections if the public officer or employee:

(a) Relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the public employee or upon the manual published by the Commission pursuant to NRS 281.471;

(b) Was unable, through no fault of his own, to obtain an opinion from the Commission before the action was taken; and

(c) Took action that was not contrary to a prior published opinion issued by the Commission.

~~[7.]~~ 6. In addition to other penalties provided by law, a public employee who willfully violates a provision of NRS 281.481, 281.491, 281.501 or 281.505 is subject to disciplinary proceedings by his employer and must be

referred for action in accordance to the applicable provisions governing his employment.

~~{8.}~~ 7. NRS 281.481 to 281.541, inclusive, do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

~~{9.}~~ 8. The imposition of a civil penalty pursuant to ~~{subsections 1 to 4, inclusive,}~~ *subsection 1, 2 or 3* is a final decision for the purposes of judicial review.

~~{10.}~~ 9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

Sec. 21. NRS 281.477, 294A.345 and 294A.346 are hereby repealed.

Sec. 22. The amendatory provisions of sections 14 to 21, inclusive, of this act do not apply to conduct that occurred before October 1, 2005, or to the jurisdiction, duties, powers or proceedings of the Commission on Ethics relating to such conduct.”

Amend sec. 15, page 7, line 28, after “14” by inserting:  
“to 23, inclusive,”.

Amend the bill as a whole by adding the text of repealed sections, following sec. 15, to read as follows:

“

#### TEXT OF REPEALED SECTIONS

281.477 Public hearing on request for opinion as to whether person committed act to impede success of political campaign: Request; notice; response; continuance; actions of Commission; judicial review of final opinion.

1. If a request for an opinion is filed with the Commission pursuant to NRS 294A.345 or 294A.346, the Commission shall conduct a public hearing on the request. Except as otherwise provided in subsection 6, the hearing must be held as expeditiously as possible, but not later than 15 days after the receipt of the request for the opinion.

2. Such a request must be accompanied by all evidence and arguments to be offered by the requester concerning the issues related to the request. Except as otherwise provided in this subsection, if such evidence and arguments are not submitted with the request, the Commission may:

(a) Draw any conclusions it deems appropriate from the failure of the person or group of persons requesting the opinion to submit the evidence and

arguments, other than a conclusion that a person alleged to have violated NRS 294A.345 acted with actual malice; and

(b) Decline to render an opinion.

The provisions of this subsection do not prohibit the Commission from considering evidence or arguments presented by the requester after submission of the request for an opinion if the Commission determines that consideration of such evidence or arguments is in the interest of justice.

3. The Commission shall immediately notify any person alleged to have violated NRS 294A.345 or 294A.346 that such an opinion has been requested by the most expedient means possible. If notice is given orally by telephone or in any other manner, a second notice must be given in writing not later than the next calendar day by facsimile machine or overnight mail. The notice must include the time and place of the Commission's hearing on the matter.

4. A person notified pursuant to subsection 3 shall submit a response to the Commission not later than the close of business on the second business day following the receipt of the notice. The response must be accompanied by any evidence concerning the issues related to the request that the person has in his possession or may obtain without undue financial hardship. Except as otherwise provided in this subsection, if such evidence is not submitted within that time, the Commission may:

(a) Draw any conclusions it deems appropriate from the failure of that person to submit the evidence and argument; and

(b) Prohibit that person from responding and presenting evidence at the hearing.

The provisions of this subsection do not prohibit the Commission from allowing that person to respond and present evidence or arguments, or both, after the close of business on the second business day if the Commission determines that consideration of such evidence or arguments is in the interest of justice.

5. Except as otherwise provided in subsection 4, the Commission shall allow any person alleged to have violated NRS 294A.345 or 294A.346 to:

(a) Be represented by counsel; and

(b) Hear the evidence presented to the Commission and respond and present evidence on his own behalf.

6. At the request of:

(a) The person or group of persons that filed the request for the opinion pursuant to NRS 294A.345 or 294A.346; or

(b) The person alleged to have violated the provisions of NRS 294A.345 or 294A.346,

the Commission may grant a continuance of a hearing held pursuant to the provisions of this section upon a showing of the existence of extraordinary circumstances that would prohibit the Commission from rendering a fair and impartial opinion. A continuance may be granted for not more than 15 days.

Not more than one continuance may be granted by the Commission pursuant to this subsection.

7. The person or group of persons that filed the request for the opinion pursuant to NRS 294A.345 or 294A.346 has the burden of proving the elements of the offense, including that a person alleged to have violated NRS 294A.345 acted with actual malice. The existence of actual malice may not be presumed. A final opinion of the Commission rendered pursuant to this section must be supported by clear and convincing evidence. In addition to the other requirements for issuing an opinion pursuant to this subsection, the Commission shall not render a final opinion determining that a person has violated NRS 294A.345 unless the Commission makes specific findings that:

- (a) The person caused to be published a false statement of fact concerning a candidate;
- (b) The person acted with actual malice in causing the false statement to be published;
- (c) The person acted with the intent to impede the success of the campaign of the candidate in causing the false statement to be published; and
- (d) The publication of the false statement did in fact impede the success of the campaign of the candidate.

In addition to the other requirements for issuing an opinion pursuant to this subsection, the Commission shall not render a final opinion determining that a person has violated NRS 294A.345 or 294A.346 unless a finding that each of the elements of the offense has been proven receives the affirmative vote of two-thirds of the Commission.

8. The Commission shall render its opinion, or decline to render an opinion, as expeditiously as possible, but not later than 3 days after the date of the hearing. If additional time is required to determine the state of mind or the intent of the person alleged to have violated the provisions of NRS 294A.345 or 294A.346 or to determine the amount of any civil penalty that may be imposed pursuant to NRS 281.551, the Commission may continue its jurisdiction to investigate those issues but shall render its opinion as to the truth or falsity of the statement made concerning the candidate or the ballot question or its opinion as to whether the person impeded the success of the campaign or induced another person to impede the success of the campaign. If the Commission continues its jurisdiction pursuant to this subsection, it may render a final opinion after the time set forth in this subsection.

9. A final opinion of the Commission rendered pursuant to this section is subject to judicial review pursuant to NRS 233B.130. The district court shall give a petition for judicial review of a final opinion of the Commission priority over other civil matters that are not expressly given priority by law. Notwithstanding the provisions of NRS 233B.130, the court may provide for such expedited review of the final opinion, including shortened periods for filing documents, as it deems appropriate for the circumstances.

10. Each request for an opinion filed pursuant to NRS 294A.345 or 294A.346, each opinion rendered by the Commission pursuant thereto and

any motion, evidence or record of a hearing relating to the request are public and must be open to inspection pursuant to NRS 239.010.

11. For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking any action related to the rendering of an opinion pursuant to this section.

12. Except as otherwise provided in this section, a meeting or hearing held by the Commission to carry out the provisions of this section and the Commission's deliberations on the information or evidence are not subject to any provision of chapter 241 of NRS.

13. As used in this section:

(a) "Actual malice" has the meaning ascribed to it in NRS 294A.345.

(b) "Publish" has the meaning ascribed to it in NRS 294A.345.

294A.345 Impeding success of campaign of candidate by causing publication of certain false statements of fact concerning candidate prohibited; civil penalty imposed by Commission on Ethics.

1. A person shall not, with actual malice and the intent to impede the success of the campaign of a candidate, impede the success of the candidate by causing to be published a false statement of fact concerning the candidate, including, without limitation, statements concerning:

(a) The education or training of the candidate.

(b) The profession or occupation of the candidate.

(c) Whether the candidate committed, was indicted for committing or was convicted of committing a felony or other crime involving moral turpitude, dishonesty or corruption.

(d) Whether the candidate has received treatment for a mental illness.

(e) Whether the candidate was disciplined while serving in the military or was dishonorably discharged from service in the military.

(f) Whether another person endorses or opposes the candidate.

(g) The record of voting of a candidate if he formerly served or currently serves as a public officer.

2. Any candidate who alleges that a false statement of fact concerning the candidate has been published in violation of subsection 1 may file a request for an opinion with the Commission on Ethics pursuant to NRS 281.411 to 281.581, inclusive. Such a request must be filed with the Commission not later than 10 days after the date on which the false statement of fact is alleged to have been made. The Commission shall give priority to such a request over all other matters pending with the Commission.

3. A person who violates the provisions of this section is subject to a civil penalty that may be imposed by the Commission on Ethics pursuant to NRS 281.551.

4. As used in this section:

(a) "Actual malice" means knowledge of the falsity of a statement or reckless disregard for whether a statement is true or false.

(b) “Publish” means the act of printing, posting, broadcasting, mailing, speaking or otherwise disseminating.

294A.346 Impeding success or inducing another to impede success of campaign of candidate or for ballot question prohibited; civil penalty imposed by Commission on Ethics.

1. An employee, agent or volunteer of the campaign of a candidate shall not willfully perform any act in the course of his employment, agency or volunteering that impedes the success of that campaign.

2. A person shall not willfully, to impede the success of the campaign of a candidate, offer or give an item of value to:

(a) A person to induce him to obtain a position as an employee, agent or volunteer for that campaign and perform any act in the course of his employment, agency or volunteering to impede the success of that campaign; or

(b) An employee, agent or volunteer for that campaign to induce him to perform any act in the course of his employment, agency or volunteering to impede the success of that campaign.

3. An employee, agent or volunteer of a campaign for the passage or defeat of a question on the ballot at any election, including any recall or special election, shall not willfully perform any act in the course of his employment, agency or volunteering that impedes the success of that campaign.

4. A person shall not willfully, to impede the success of a campaign for the passage or defeat of a question on the ballot at any election, including any recall or special election, offer or give an item of value to:

(a) A person to induce him to obtain a position as an employee, agent or volunteer for that campaign and perform any act in the course of his employment, agency or volunteering to impede the success of that campaign; or

(b) An employee, agent or volunteer for that campaign to induce him to perform any act in the course of his employment, agency or volunteering to impede the success of that campaign.

5. Any candidate who alleges that a person has violated the provisions of subsection 1 or 2, and any person or group of persons that advocates the passage or defeat of a question on the ballot at any election, is required to file a report pursuant to NRS 294A.150, and alleges that a person has violated the provisions of subsection 3 or 4, may file a request for an opinion with the Commission on Ethics pursuant to NRS 281.411 to 281.581, inclusive. Such a request must be filed with the Commission not later than 10 days after the date of the election with respect to which the alleged violation occurred. The Commission shall give priority to such a request over all matters pending with the Commission.

6. A person who violates the provisions of this section is subject to a civil penalty that may be imposed by the Commission on Ethics pursuant to NRS 281.551.”.

Amend the title of the bill to read as follows:

“AN ACT relating to government; requiring an election board to have a copy of a list of all registered voters in the county who are eligible to vote in an election; providing that public high schools and public libraries must serve as a site at which a person may obtain an application to register to vote; revising the provisions relating to powers of a chairman of an election board; providing that a district attorney has concurrent jurisdiction with the Secretary of State to enforce certain provisions relating to elections; repealing the provision prohibiting a person from making a false statement of fact concerning a candidate or a question on a ballot under certain circumstances; repealing the provision prohibiting certain persons from willfully impeding the success of the campaign of a candidate or the campaign for the passage or defeat of a question on a ballot; and providing other matters properly relating thereto.”

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes relating to public office. (BDR 24-898)”

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

Bill ordered reprinted, re-engrossed, and to third reading.

Assembly Bill No. 461.

Bill read third time.

Roll call on Assembly Bill No. 461:

YEAS—42.

NAYS—None.

Assembly Bill No. 461 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 89.

Bill read third time.

Roll call on Senate Bill No. 89:

YEAS—42.

NAYS—None.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 98.

Bill read third time.

Roll call on Senate Bill No. 98:

YEAS—42.

NAYS—None.

Senate Bill No. 98 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 311.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Senate Bill No. 311:

YEAS—41.

NAYS—Angle.

Senate Bill No. 311 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 77.

Bill read third time.

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

Amendment No. 1132.

Amend section 1, pages 3 and 4, by deleting lines 41 through 43 on page 3 and line 1 on page 4, and inserting:

“4. *Except as otherwise provided in this section, the board of*”.

Amend section 1, page 4, by deleting lines 13 and 14 and inserting: “~~vehicles in connection with those courses.~~ *or charter school, as applicable.*”

5. *The board of trustees of each school district and the governing body of each charter school are encouraged to enter into agreements with vehicle dealers pursuant to which the vehicle dealers donate motor vehicles for use in that component of courses of automobile drivers’ education which is conducted in a motor vehicle pursuant to this section. As used in this subsection, “vehicle dealer” has the meaning ascribed to it in NRS 482.020.”.*

Amend the bill as a whole by renumbering sections 2 through 6 as sections 3 through 7 and adding a new section designated sec. 2, following section 1, to read as follows:

“Sec. 2. NRS 483.250 is hereby amended to read as follows:

483.250 The Department shall not issue any license pursuant to the provisions of NRS 483.010 to 483.630, inclusive:

1. To any person who is under the age of 18 years, except that the Department may issue:

(a) A restricted license to a person between the ages of 14 and 18 years pursuant to the provisions of NRS 483.267 and 483.270.

(b) An instruction permit to a person who is at least 15 1/2 years of age pursuant to the provisions of subsection 1 of NRS 483.280.



(c) A restricted instruction permit to a person under the age of 18 years pursuant to the provisions of subsection 3 of NRS 483.280.

(d) ~~Except as otherwise provided in paragraph (e), a~~ A license to a person between the ages of 15 3/4 and 18 years if:

(1) He has completed a course:

(I) In automobile drivers' education pursuant to NRS 389.090; or

(II) Provided by a school for training drivers licensed pursuant to NRS 483.700 to 483.780, inclusive, if the course complies with the applicable regulations governing the establishment, conduct and scope of automobile drivers' education adopted by the State Board of Education pursuant to NRS 389.090;

(2) He has at least 50 hours of experience in driving a motor vehicle with a restricted license, instruction permit or restricted instruction permit issued pursuant to NRS 483.267, 483.270 or 483.280;

(3) His parent or legal guardian signs and submits to the Department a form provided by the Department which attests that the person who wishes to obtain the license has completed the training and experience required by subparagraphs (1) and (2); and

(4) He has held an instruction permit for at least:

(I) Ninety days before he applies for the license, if he was under the age of 16 years at the time he obtained the instruction permit;

(II) Sixty days before he applies for the license, if he was at least 16 years of age but less than 17 years of age at the time he obtained the instruction permit; or

(III) Thirty days before he applies for the license, if he was at least 17 years of age but less than 18 years of age at the time he obtained the instruction permit.

~~[(e) A license to a person who is between the ages of 15 3/4 and 18 years if:~~

~~(1) The public school in which he is enrolled is located in a county whose population is less than 50,000 or in a city or town whose population is less than 25,000;~~

~~(2) The public school does not offer automobile drivers' education;~~

~~(3) He has at least 50 hours of experience in driving a motor vehicle with a restricted license, instruction permit or restricted instruction permit issued pursuant to NRS 483.267, 483.270 or 483.280;~~

~~(4) His parent or legal guardian signs and submits to the Department a form provided by the Department which attests that the person who wishes to obtain the license has completed the experience required by subparagraph (3); and~~

~~(5) He has held an instruction permit for at least:~~

~~(I) Ninety days before he applies for the license, if he was under the age of 16 years at the time he obtained the instruction permit;~~

~~(II) Sixty days before he applies for the license, if he was at least 16 years of age but less than 17 years of age at the time he obtained the instruction permit; or~~

~~(III) Thirty days before he applies for the license, if he was at least 17 years of age but less than 18 years of age at the time he obtained the instruction permit.]~~

2. To any person whose license has been revoked until the expiration of the period during which he is not eligible for a license.

3. To any person whose license has been suspended, but upon good cause shown to the Administrator, the Department may issue a restricted license to him or shorten any period of suspension.

4. To any person who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to legal capacity.

5. To any person who is required by NRS 483.010 to 483.630, inclusive, to take an examination, unless he has successfully passed the examination.

6. To any person when the Administrator has good cause to believe that by reason of physical or mental disability that person would not be able to operate a motor vehicle safely.

7. To any person who is not a resident of this State.

8. To any child who is the subject of a court order issued pursuant to title 5 of NRS which delays his privilege to drive.

9. To any person who is the subject of a court order issued pursuant to NRS 206.330 which suspends or delays his privilege to drive until the expiration of the period of suspension or delay.”

Amend sec. 4, page 6, line 27, by deleting “3” and inserting “4”.

Amend the title of the bill, sixth line, after “education;” by inserting:

“encouraging school districts and charter schools to enter into agreements with vehicle dealers for the donation of motor vehicles for use in courses of automobile drivers’ education;”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

Bill ordered reprinted, re-engrossed, and to third reading.

Assembly Bill No. 464.

Bill read third time.

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

Amendment No. 1130.

Amend sec. 18, page 4, by deleting lines 15 and 16 and inserting:

“Sec. 18. 1. *The Department may adopt regulations establishing:*

*(a) Reporting requirements for manufacturers and wholesale dealers; and*

*(b) Procedures for the electronic submission of reports required pursuant to any reporting requirements established under paragraph (a).*

2. *Any regulations adopted pursuant to subsection 1 relating to reporting requirements for manufacturers must provide for submission to the Department of periodic reports of:*”

Amend sec. 18, page 4, by deleting line 30 and inserting:

“3. *Any regulations adopted pursuant to subsection 1 relating to reporting requirements for wholesale dealers must provide for submission to the Department of*”.

Amend sec. 18, page 5, by deleting line 35 and inserting:

“4. *Any reports required by regulations adopted pursuant to subsection 1 must be:*”.

Amend sec. 18, page 5, by deleting line 39 and inserting:

“5. *In each report required by regulations adopted pursuant to subsection 1, the information*”.

Amend sec. 18, pages 5 and 6, by deleting line 45 on page 5 and lines 1 through 5 on page 6, and inserting:

“6. *The reporting period for any reports required by regulations adopted pursuant to subsection 1 must be for a duration of not less than 1 month and not more than 3 months.*”.

Amend sec. 21, page 7, by deleting lines 22 through 26 and inserting: “*delivery sale; and*

(2) *A clear and conspicuous statement providing as follows:*”.

Amend sec. 22, page 7, by deleting lines 40 through 42 and inserting: “*calendar month, except a delivery service, shall create and maintain records containing the following information relating to every such delivery sale:*”.

Amend sec. 22, page 8, between lines 2 and 3, by inserting:

“ *The records required by this section must be provided to the Department at the Department’s request and must be retained for not less than 3 years after the date of the applicable transaction unless the Department, in writing, authorizes the records to be removed or destroyed at an earlier time.*”.

Amend sec. 23, page 8, by deleting lines 26 through 29.

Amend sec. 31, page 11, line 13, after “*delivered*” by inserting: “*; sold, exchanged, transported, distributed*”.

Amend sec. 44, page 17, by deleting lines 8 through 25 and inserting:

“(a) To alter, forge or counterfeit any license, stamp or cigarette tax meter impression provided for in this chapter;

(b) To have in his possession any forged, counterfeited, spurious or altered license, stamp or cigarette tax meter impression, with the intent to use the same, knowing or having reasonable grounds to believe the same to be such;

(c) To have in his possession one or more cigarette stamps or cigarette tax meter impressions which he knows have been removed from the pieces of packages or packages of cigarettes to which they were affixed;

(d) To affix to any piece of a package or package of cigarettes a stamp or cigarette tax meter impression which he knows has been removed from any other piece of a package or package of cigarettes; or

(e) To have in his possession for the purpose of sale cigarettes which do not bear indicia of the State of Nevada excise tax stamping. Presence of the cigarettes in a cigarette vending machine is prima facie evidence of the purpose to sell.”.

Amend the bill as a whole by deleting sec. 51 and adding new sections designated sections 51 and 52, following sec. 50, to read as follows:

“Sec. 51. NRS 179.121 is hereby amended to read as follows:

179.121 1. All personal property, including, without limitation, any tool, substance, weapon, machine, computer, money or security, which is used as an instrumentality in any of the following crimes, is subject to forfeiture:

(a) The commission of or attempted commission of the crime of murder, robbery, kidnapping, burglary, invasion of the home, grand larceny, theft if it is punishable as a felony, or pandering;

(b) The commission of or attempted commission of any felony with the intent to commit, cause, aid, further or conceal an act of terrorism;

(c) A violation of NRS 202.445 or 202.446;

(d) The commission of any crime by a criminal gang, as defined in NRS 213.1263; or

(e) A violation of NRS 200.465, 202.265, 202.287, 205.473 to 205.513, inclusive, ~~and~~ 205.610 to 205.810, inclusive, 370.380 or section 26, 27 or 28 of this act, or 465.070 to 465.085, inclusive.

2. Except as otherwise provided for conveyances forfeitable pursuant to NRS 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of NRS 202.287, 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the felony. If a conveyance is forfeited, the appropriate law enforcement agency may pay the existing balance and retain the conveyance for official use.

3. For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

4. As used in this section, “act of terrorism” has the meaning ascribed to it in NRS 202.4415.

Sec. 52. 1. This section and sections 1 to 34, inclusive, 36 and 39 to 51, inclusive, of this act become effective upon passage and approval.

2. Sections 35 and 37 of this act become effective on January 1, 2006.

3. Section 38 of this act becomes effective on July 1, 2007.”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

Bill ordered reprinted, re-engrossed, and to third reading.

Assembly Bill No. 568.

Bill read third time.

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

Amendment No. 1129.

Amend the bill as a whole by deleting sections 1 through 7 and adding new sections designated sections 1 through 46, following the enacting clause, to read as follows:

“Section 1. Title 23 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 40, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 15, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Arbitration” means a process of dispute resolution where the parties involved in an impasse or grievance dispute submit their dispute to a third party for a final and binding decision.*

Sec. 4. *“Board” means the Public Employment Relations Board created pursuant to NRS 288.080.*

Sec. 5. *“Confidential employee” means an employee who provides administrative support to an employee who assists in the formulation, determination and effectuation of personnel policies or managerial policies concerning discussions of workplace relations or supplemental discussions of workplace relations.*

Sec. 6. *“Discussions of workplace relations” means a method to determine the terms and conditions of employment for all employees within a workplace relations unit through negotiation, mediation or arbitration between the Executive Department and the exclusive representative of the workplace relations unit pursuant to this chapter.*

Sec. 7. 1. “Employee” means a person who:

(a) Is employed in the classified service of the State pursuant to chapter 284 of NRS, including, without limitation, persons employed in the classified service by the University and Community College System of Nevada; or

(b) Is employed by the Public Employees’ Retirement System and who is required to be paid in accordance with the pay plan for the classified service of the State.

2. The term does not include:

(a) A managerial employee whose primary function, as determined by the Board, is to administer and control the business of any agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department and who is vested with discretion and independent judgment with regard to the general conduct and control of that agency, board, bureau, commission, department, division, elected officer or unit;

(b) An elected official and any person appointed to fill a vacancy in an elected office;

(c) A confidential employee;

(d) A temporary employee who is employed for a fixed period of 4 months or less;

(e) A commissioned officer and an enlisted member of the Nevada National Guard;

(f) A justice of the Supreme Court and a judge of a district court;

(g) Inmates of state institutions even though they may be receiving compensation for services performed for the institution; and

(h) Any person employed by the Legislature.

Sec. 8. “Exclusive representative” means an employee organization that, as a result of designation by the Board, has the exclusive right to represent all employees within a workplace relations unit and to negotiate with the Executive Department pursuant to this chapter concerning the terms and conditions of employment for those employees.

Sec. 9. “Executive Department” means an agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department of State Government.

Sec. 10. “Grievance” means an act, omission or occurrence which an employee or the exclusive representative feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, without limitation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement.

Sec. 11. “Mediation” means assistance by an impartial third party to reconcile differences between the Executive Department and an exclusive representative through interpretation, suggestion and advice.

Sec. 12. “Professional employee” means an employee engaged in work that:

1. *Is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;*

2. *Involves the consistent exercise of discretion and judgment in its performance;*

3. *Is of such a character that the result accomplished or produced cannot be standardized in relation to a given period; and*

4. *Requires advanced knowledge in a field of science or learning customarily acquired through a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from general academic education, an apprenticeship or training in the performance of routine mental or physical processes.*

Sec. 13. *“Supervisory employee” means an employee who has authority to:*

1. *Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or who has the responsibility to direct such employees; or*

2. *Adjust the grievances of other employees or effectively recommend such an action, if the exercise of that authority requires the use of independent judgment and is not of a routine or clerical nature.*

*The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee’s workday. Nothing in this section may be construed to mean that an employee who has been given incidental administrative duties is classified as a supervisory employee.*

Sec. 14. *“Terms and conditions of employment” includes, without limitation:*

1. *Hours and working conditions;*

2. *Grievances;*

3. *Discipline and discharge; and*

4. *Any other term or condition of employment that does not require an appropriation from the Legislature to be given effect.*

Sec. 15. *“Workplace relations unit” means a collection of employees that the Board has established as a workplace relations unit pursuant to section 25 of this act.*

Sec. 16. 1. *The Legislature hereby finds and declares that there is a great need to:*

(a) *Promote orderly and constructive relations between the State and its employees; and*

(b) *Increase the efficiency of State Government.*

2. *It is therefore within the public interest that the Legislature enact provisions:*

(a) *Granting certain state employees the right to associate with others in organizing and choosing representatives for the purpose of discussing workplace relations;*

(b) Requiring the State to recognize, negotiate and discuss workplace relations with employee organizations that represent state employees and to enter into written agreements evidencing the result of discussions of workplace relations; and

(c) Establishing standards and procedures that protect the rights of state employees, the Executive Department and the people of the State.

Sec. 17. 1. The Board may make rules governing:

(a) Proceedings before it;

(b) Procedures for fact-finding;

(c) The recognition of exclusive representatives;

(d) The determination of workplace relations units; and

(e) Such other rules as are necessary for the Board to carry out its duties pursuant to this chapter.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by the Executive Department, an employee or an exclusive representative. The Board shall conduct a hearing within 90 days after it decides to hear a complaint. The Board, after a hearing, if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The Board shall issue its decision within 120 days after the hearing on the complaint is completed.

3. Any party aggrieved by the failure of any person to obey an order of the Board issued pursuant to subsection 2, or the Board at the request of such party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The Board may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

Sec. 18. 1. For the purpose of hearing and deciding appeals or complaints, the Board may issue subpoenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any hearing is being conducted by the Board may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Board.



3. *In the case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Board 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 this chapter; and*

*(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Board in the hearing 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 Board.*

4. *The court, upon petition of the Board, 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 after 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 Board. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Board, the court shall thereupon enter an order that the witness appear before the Board 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. 19. *Every hearing and determination of an appeal or complaint by the Board is a contested case subject to the provisions of law which govern the administrative decision and judicial review of such cases.*

Sec. 20. 1. *For the purposes of discussions of workplace relations, supplemental discussions of workplace relations and other mutual aid or protection, employees have the right to:*

*(a) Organize, form, join and assist employee organizations, engage in discussions of workplace relations and supplemental discussions of workplace relations through exclusive representatives and engage in other concerted activities; and*

*(b) Refrain from engaging in such activity.*

2. *Discussions of workplace relations and supplemental discussions of workplace relations entail a mutual obligation of the Executive Department and an exclusive representative to meet at reasonable times and to discuss workplace relations in good faith with respect to:*

*(a) The terms and conditions of employment;*

*(b) The negotiation of an agreement;*

*(c) The resolution of any question arising under an agreement; and*

*(d) The execution of a written contract incorporating the provisions of an agreement, if requested by either party.*

Sec. 21. 1. *Each workplace relations agreement must be in writing and must include, without limitation:*

*(a) A procedure to resolve grievances which culminates in final and binding arbitration; and*

*(b) A provision which provides that an officer of the Executive Department may, upon written authorization by an employee within the workplace relations unit, withhold a sufficient amount of money from the salary or wages of the employee pursuant to NRS 281.129 to pay dues or similar fees to the exclusive representative of the workplace relations unit.*

2. *Except as otherwise provided in subsection 3, the procedure to resolve grievances required in an agreement pursuant to paragraph (a) of subsection 1 is the exclusive means available for resolving grievances related to the administration of the agreement.*

3. *An employee in a workplace relations unit may pursue a grievance related to any disciplinary action taken against him by his employer through the procedure:*

*(a) Provided in the agreement pursuant to paragraph (a) of subsection 1; or*

*(b) Any procedure available to him pursuant to the provisions of chapter 284 of NRS,*

*but once the employee has properly filed his grievance pursuant to paragraph (a) or (b), he may not proceed to file his grievance in the alternative manner.*

4. *In the event of a conflict between a provision of an agreement between the Executive Department and an exclusive representative and:*

*(a) Any regulation adopted by the Executive Department, the provisions of the agreement prevail unless the provisions of the agreement are outside of the lawful scope of discussions of workplace relations.*

*(b) An existing statute, the provision of the agreement may not be given effect unless the Legislature amends the existing statute in such a way as to eliminate the conflict.*

Sec. 22. 1. *It is a prohibited practice for the Executive Department or its designated representative willfully to:*

*(a) Refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with an exclusive representative, including, without limitation, refusing to engage in mediation or arbitration.*

*(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.*

*(c) Dominate, interfere with or assist in the formation or administration of an employee organization.*

*(d) Discriminate in regard to hiring, tenure or any terms and conditions of employment to encourage or discourage membership in an employee organization.*

(e) Discharge or otherwise discriminate against an employee because the employee has:

(1) Signed or filed an affidavit, petition or complaint or has provided any information or given any testimony pursuant to this chapter; or

(2) Formed, joined or chosen to be represented by an employee organization.

(f) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

(g) Deny rights accompanying a designation as an exclusive representative.

2. It is a prohibited practice for an employee organization or its designated agent willfully to:

(a) When acting as an exclusive representative, refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with the Executive Department, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

Sec. 23. 1. To establish that a party committed a prohibited practice in violation of section 22 of this act, the party aggrieved by the practice must:

(a) File a complaint with the Board not later than 6 months after the alleged prohibited practice occurred; and

(b) Send a copy of the complaint to the other party by certified mail, return receipt requested, or by any other method authorized by the Board.

2. Not later than 10 days after receiving a complaint pursuant to paragraph (b) of subsection 1, a party shall file a response to the complaint with the Board.

3. The Board shall conduct a preliminary investigation of the complaint. Based on its investigation:

(a) If the Board determines that the complaint has no basis in law or fact, the Board must dismiss the complaint.

(b) If the Board determines that the complaint may have a basis in law or fact, the Board must order a hearing to be conducted in accordance with:

(1) The provisions of chapter 233B of NRS that apply to a contested case; and

(2) The rules established by the Board pursuant to section 17 of this act.

4. If the Board finds at the hearing that the party accused in the complaint has committed a prohibited practice, the Board:

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

*(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.*

*5. The Board may petition the district court for enforcement of its orders.*

*6. Any order or decision issued by the Board pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the Board must file a petition for judicial review not later than 10 days after being served with the order or decision of the Board.*

*Sec. 24. 1. The Board may appoint a hearing officer to conduct a hearing which may be conducted by the Board pursuant to section 23 of this act.*

*2. A decision of the hearing officer may be appealed to the Board.*

*3. On appeal to the Board, the Board may consider the record of the hearing or conduct a hearing de novo. A hearing de novo conducted by the Board must be conducted in accordance with:*

*(a) The provisions of chapter 233B of NRS that apply to a contested case; and*

*(b) The rules established by the Board pursuant to section 17 of this act.*

*4. If the Board finds at the hearing that the party accused in the complaint has committed a prohibited practice, the Board:*

*(a) Shall order the party to cease and desist from engaging in the prohibited practice; and*

*(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.*

*5. The Board may petition the district court for enforcement of its orders.*

*6. Any order or decision issued by the Board pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the Board must file a petition for judicial review not later than 10 days after being served with the order or decision of the Board.*

*Sec. 25. 1. The Board shall, in accordance with the rules established pursuant to section 17 of this act, establish workplace relations units on a statewide basis, including, without limitation, the workplace relations units described in subsection 2.*

*2. The Board shall establish one workplace relations unit for each of the following occupational groups, and each such workplace relations unit must include all supervisory employees at the working level of the occupational group:*

*(a) Labor, maintenance, custodial and institutional employees, including, without limitation, employees of penal and correctional institutions who are not responsible for security at those institutions.*

(b) *Administrative and clerical employees, including, without limitation, paralegals and employees whose work involves general office work, or keeping or examining records and accounts.*

(c) *Technical aides to professional employees, including, without limitation, computer programmers, tax examiners, conservation employees and crew supervisors.*

(d) *Professional employees, including, without limitation, physical therapists and other employees in medical and other professions related to health.*

(e) *Employees, other than professional employees, who provide health care and personal care, including, without limitation, employees who care for children.*

(f) *Category I and category II peace officers.*

(g) *Category III peace officers.*

(h) *Supervisory employees not otherwise included in other workplace relations units.*

(i) *Employees of the University and Community College System of Nevada, except such employees who are category I peace officers.*

(j) *Employees of the State Department of Conservation and Natural Resources who:*

(1) *Perform emergency fire suppression; or*

(2) *Provide direct support to the employees described in subparagraph (1).*

3. *The Board shall, in accordance with the rules established pursuant to section 17 of this act, establish the exact classifications of employees within each workplace relations unit. The Board may assign a new classification to a workplace relations unit based upon the similarity of the new classification to other classifications within the workplace relations unit.*

4. *The Board shall not change an established workplace relations unit arbitrarily.*

5. *The Board shall determine whether the employment functions of any group of employees performing managerial functions preclude the inclusion of those employees in a workplace relations unit.*

6. *As used in this section:*

(a) *“Category I peace officer” has the meaning ascribed to it in NRS 289.460.*

(b) *“Category II peace officer” has the meaning ascribed to it in NRS 289.470.*

(c) *“Category III peace officer” has the meaning ascribed to it in NRS 289.480.*

Sec. 26. *If no employee organization is designated as the exclusive representative of a workplace relations unit and an employee organization files with the Board a list of its membership showing that the employee organization represents more than 50 percent of the employees within the workplace relations unit, the Board shall designate the employee*

organization as the exclusive representative of the workplace relations unit without ordering an election.

Sec. 27. 1. If no employee organization is designated as the exclusive representative of a workplace relations unit, the Board shall order an election to be conducted within the workplace relations unit if:

(a) An employee organization files with the Board a written request for an election which includes a list of its membership showing that it represents at least 30 percent but not more than 50 percent of the employees within the workplace relations unit; and

(b) No other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

2. If the Board designates an employee organization as the exclusive representative of a workplace relations unit pursuant to subsection 1 or section 26 of this act, the Board shall order an election if:

(a) Either:

(1) Another employee organization files with the Board a written request for an election which includes a list of its membership showing that the employee organization represents at least 50 percent of the employees within the workplace relations unit; or

(2) A group of employees within the workplace relations unit files with the Board a written request for an election which includes a list showing that more than 50 percent of the employees within the workplace relations unit have requested that an election be conducted to change or discontinue representation; and

(b) If applicable, the request filed pursuant to paragraph (a) is filed not more than 270 days or not less than 225 days before the date on which the current workplace relations agreement in effect for the workplace relations unit expires; and

(c) No other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

Sec. 28. 1. If the Board orders an election within a workplace relations unit pursuant to section 27 of this act, the Board shall order that each of the following be placed as a choice on the ballot for the election:

(a) If applicable, the employee organization that requested the election pursuant to section 27 of this act and the employee organization that is presently designated as the exclusive representative of the workplace relations unit pursuant to section 27 of this act;

(b) Any other employee organization that, on or before the date that is prescribed by the rules established by the Board, files with the Board a written request to be placed on the ballot for the election and includes with the written request a list of its membership showing that the employee organization represents at least 30 percent of the employees within the workplace relations unit; and

*(c) A choice for “no representation.”*

*2. If a ballot for an election contains more than two choices and none of the choices on the ballot receives a majority of the votes cast at the initial election, the Board shall order a runoff election between the two choices on the ballot that received the highest number of votes at the initial election.*

*3. If the choice for “no representation” receives a majority of the votes cast at the initial election or at any runoff election, the Board shall designate the workplace relations unit as being without representation.*

*4. If an employee organization receives a majority of the votes cast at the initial election or at any runoff election, the Board shall designate the employee organization as the exclusive representative of the workplace relations unit.*

*Sec. 29. 1. The Board shall preside over all elections that are conducted pursuant to this chapter and shall determine the eligibility requirements for employees to vote in any such election.*

*2. An employee organization that is placed as a choice on the ballot for an election or any employee who is eligible to vote at an election may file with the Board a written objection to the results of the election. The objection must be filed not later than 10 days after the date on which the notice of the results of the election is given by the Board.*

*3. In response to a written objection filed pursuant to subsection 2 or upon its own motion, the Board may invalidate the results of an election and order a new election if the Board finds that any conduct or circumstances raise substantial doubt that the results of the election are reliable.*

*Sec. 30. 1. Except as otherwise provided in subsection 2, an exclusive representative shall:*

*(a) Act as the agent and exclusive representative of all employees within each workplace relations unit that it represents; and*

*(b) In good faith and on behalf of each workplace relations unit that it represents, individually or collectively, engage in discussions of workplace relations with the Executive Department concerning the terms and conditions of employment for the employees within each workplace relations unit that it represents, including, without limitation, any terms and conditions of employment that are within the scope of supplemental discussions of workplace relations pursuant to section 38 of this act.*

*2. If an employee is within a workplace relations unit that has an exclusive representative, the employee has the right to present grievances to the Executive Department at any time and to have those grievances adjusted without the intervention of the exclusive representative if:*

*(a) The exclusive representative is given an opportunity to be present at any meetings or hearings related to the adjustment of the grievance; and*

*(b) The adjustment of the grievance is not inconsistent with the provisions of the workplace relations agreement or any supplemental workplace relations agreement then in effect.*

Sec. 31. *If the Board designates an employee organization as the exclusive representative of a workplace relations unit pursuant to this chapter, an officer of the Executive Department may not, pursuant to NRS 281.129, withhold any amount of money from the salary or wages of an employee within the workplace relations unit to pay dues or similar fees to an employee organization other than the employee organization that is the exclusive representative of the workplace relations unit.*

Sec. 32. *The Executive Department and an exclusive representative shall begin negotiations concerning a workplace relations agreement within 60 days after one party notifies the other party of the desire to negotiate.*

Sec. 33. 1. *If the parties do not reach a workplace relations agreement within 120 days after the date on which the parties began negotiations or any later date which is set by agreement of the parties, either party may request a mediator from the Federal Mediation and Conciliation Service.*

2. *The mediator shall bring the parties together as soon as possible after his appointment and shall attempt to settle each issue in dispute within 30 days after his appointment or any later date which is set by agreement of the parties.*

Sec. 34. 1. *If the mediator determines that his services are no longer helpful or if the parties do not reach a workplace relations agreement through mediation within 30 days after the appointment of the mediator or any later date which is set by agreement of the parties, the mediator shall discontinue mediation and the parties shall attempt to agree upon an impartial arbitrator.*

2. *If the parties do not agree upon an impartial arbitrator within 5 days after the date on which mediation is discontinued pursuant to subsection 1 or on or before any later date which is set by agreement of the parties, the parties shall request from the Federal Mediation and Conciliation Service a list of seven potential arbitrators. The parties shall select an arbitrator from this list by alternately striking one name until the name of only one arbitrator remains, and that arbitrator must hear the dispute in question. The party who will strike the first name must be determined by a coin toss.*

3. *The arbitrator shall begin arbitration proceedings within 60 days after his selection or any later date which is set by agreement of the parties.*

4. *The arbitrator and the parties shall apply and follow the procedures for arbitration that are prescribed by the rules established by the Board. During arbitration, the parties retain their respective duties to negotiate in good faith.*

5. *The arbitrator may administer oaths or affirmations, take testimony and issue and seek enforcement of subpoenas in the same manner as the Board pursuant to section 18 of this act, and except as otherwise provided in subsection 6, the provisions of section 18 of this act apply to subpoenas issued by the arbitrator.*

6. *The Executive Department and the exclusive representative shall each pay one-half of the cost of arbitration.*



Sec. 35. 1. *For each separate issue that is in dispute after arbitration proceedings are held pursuant to section 34 of this act, the arbitrator shall incorporate either the final offer of the Executive Department or the final offer of the exclusive representative into his decision. The arbitrator shall not revise or amend the final offer of either party on any issue.*

2. *To determine which final offers to incorporate into his decision, the arbitrator shall assess the reasonableness of:*

- (a) The position of each party as to each issue in dispute; and*
- (b) The contractual terms and provisions contained in each final offer.*

3. *In assessing reasonableness pursuant to subsection 2, the arbitrator shall:*

*(a) Compare the terms and conditions of employment for the employees within the workplace relations unit with the terms and conditions of employment for other employees performing similar services and for other employees generally:*

- (1) In public employment in comparable communities; and*
- (2) In private employment in comparable communities; and*

*(b) Consider, without limitation, such other factors as are normally or traditionally used as part of discussions of workplace relations, mediation, arbitration or other methods of dispute resolution to determine the terms and conditions of employment for employees in public or private employment.*

4. *The arbitrator shall render a written decision within 45 days after the conclusion of the arbitration proceedings or before any later date which is set by agreement of the parties.*

5. *Except as otherwise provided in section 36 of this act, each provision that is included in a decision of the arbitrator is final and binding upon the parties.*

Sec. 36. 1. *Except as otherwise provided in this section, a party may seek judicial review in the district court of the decision of an arbitrator made pursuant to section 35 of this act based upon jurisdictional grounds or upon the grounds that the decision:*

- (a) Was procured by fraud, collusion or other similar unlawful means; or*
- (b) Was not supported by competent, material and substantial evidence on the whole record and based upon the factors set forth in section 35 of this act.*

2. *If a party seeks judicial review pursuant to this section, the district court may stay the contested portion of the decision of the arbitrator until the court rules on the matter.*

3. *The district court may affirm or reverse the contested portion of the decision of the arbitrator, in whole or in part, but the court may not remand the matter to the arbitrator or require any additional fact-finding or decision making by the arbitrator.*

4. *If the district court reverses any part of the contested portion of the decision of the arbitrator, the court shall enter an order invalidating that*

part of the decision of the arbitrator, and that part of the decision of the arbitrator is void and must not be given effect.

Sec. 37. 1. *If a provision of a workplace relations agreement does not require an amendment to existing statute by the Legislature to be given effect, the provision becomes effective pursuant to the provisions of the workplace relations agreement.*

2. *If a provision of the workplace relations agreement requires an amendment to existing statute by the Legislature to be given effect, the provision becomes effective, if at all, on the date on which the necessary amendment to existing statute becomes effective.*

Sec. 38. 1. *Except as otherwise provided in this section, the Executive Department and the exclusive representative of the workplace relations unit may engage in supplemental discussions of workplace relations concerning any terms and conditions of employment which are peculiar to or which uniquely affect fewer than all the employees within the workplace relations unit if such supplemental terms and conditions of employment are not included in any provision of the workplace relations agreement then in effect between the Executive Department and the workplace relations unit.*

2. *The Executive Department and an exclusive representative may engage in supplemental discussions of workplace relations pursuant to subsection 1 for fewer than all the employees within two or more workplace relations units that the exclusive representative represents if the requirements of subsection 1 are met for each such workplace relations unit.*

3. *If the parties reach a supplemental workplace relations agreement pursuant to this section, the provisions of the supplemental workplace relations agreement:*

*(a) Must be in writing; and*

*(b) Shall be deemed to be incorporated into the provisions of each workplace relations agreement then in effect between the Executive Department and the employees who are subject to the supplemental workplace relations agreement if the provisions of the supplemental workplace relations agreement do not conflict with the provisions of the workplace relations agreement.*

4. *If any provision of the supplemental workplace relations agreement conflicts with any provision of the workplace relations agreement, the provision of the supplemental workplace relations agreement is void and the provision of the workplace relations agreement must be given effect.*

5. *The provisions of the supplemental workplace relations agreement expire at the same time as the other provisions of the workplace relations agreement into which they are incorporated.*

6. *The Executive Department and an exclusive representative may, during discussions of workplace relations conducted pursuant to this chapter, negotiate and include in a workplace relations agreement any terms and conditions of employment that would otherwise be within the scope of supplemental workplace relations conducted pursuant to this section.*

Sec. 39. 1. *Except as otherwise provided by specific statute, an employee organization and the Executive Department may sue or be sued as an entity pursuant to this chapter.*

2. *If any action or proceeding is brought by or against an employee organization pursuant to this chapter, the district court for the county in which the employee organization maintains its principal office or the county in which the claim arose has jurisdiction over the claim.*

3. *A natural person and his assets are not subject to liability for any judgment awarded pursuant to this chapter against the Executive Department or an employee organization.*

Sec. 40. *The terms of any workplace relations agreement remain in effect until a new workplace relations agreement takes effect.*

Sec. 41. NRS 281.129 is hereby amended to read as follows:

281.129 1. Any officer of the State, except the Legislative Fiscal Officer, who disburses money in payment of salaries and wages of officers and employees of the State:

(a) May, upon written requests of the officer or employee specifying amounts, withhold those amounts and pay them to:

(1) Charitable organizations;

(2) Employee credit unions;

(3) Except as otherwise provided in paragraph (b), insurers;

(4) The United States for the purchase of savings bonds and similar obligations of the United States; and

(5) ~~Employee~~ *Except as otherwise provided in section 31 of this act, employee organizations and labor organizations.*

(b) Shall, upon receipt of information from the Public Employees' Benefits Program specifying amounts of premiums or contributions for coverage by the Program, withhold those amounts from the salaries or wages of officers and employees who participate in the Program and pay those amounts to the Program.

2. The State Controller may adopt regulations necessary to withhold money from the salaries or wages of officers and employees of the Executive Department.

Sec. 42. NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS; or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

5. *To the extent that they are inconsistent or otherwise in conflict, the provisions of this chapter do not apply to any terms or conditions of employment that are properly within the scope of and subject to the provisions of a workplace relations agreement or a supplemental workplace relations agreement that is enforceable pursuant to the provisions of sections 2 to 40, inclusive, of this act. As used in this subsection, “terms and conditions of employment” has the meaning ascribed to it in section 14 of this act.*

Sec. 43. NRS 288.030 is hereby amended to read as follows:

288.030 “Board” means the ~~[Local Government Employee Management]~~ *Public Employment Relations Board.*

Sec. 44. NRS 288.080 is hereby amended to read as follows:

288.080 1. The ~~[Local Government Employee Management]~~ *Public Employment Relations Board* is hereby created, consisting of three members, broadly representative of the public and not closely allied with any employee organization, *the State* or any local government employer, not more than two of whom may be members of the same political party. The term of office of each member is 4 years.

2. The Governor shall appoint the members of the Board.

Sec. 45. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, change any reference to the Local Government Employee-Management Relations Board to refer to the Public Employment Relations Board.

2. In preparing the supplements to the Nevada Administrative Code, change any reference to the Local Government Employee-Management Relations Board to refer to the Public Employment Relations Board.

Sec. 46. This act becomes effective on July 1, 2005.”.

Amend the title of the bill to read as follows:

“AN ACT relating to state employees; authorizing discussions of workplace relations for certain state employees; changing the name of the Local Government Employee-Management Relations Board to the Public Employment Relations Board; expanding the duties of the Board to include discussions of workplace relations for certain state employees; providing for workplace relations units of state employees and for their representatives; establishing procedures for discussing workplace relations and for making, revising and amending workplace relations agreements; prohibiting certain unfair labor practices; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Authorizes discussions of workplace relations for certain state employees. (BDR 23-1476)”.

Assemblyman Parks moved the adoption of the amendment.

Remarks by Assemblyman Parks.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

#### UNFINISHED BUSINESS

#### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 64.

The following Senate amendment was read:

Amendment No. 872.

Amend sec. 2, page 3, lines 9 and 10, by deleting: “entitled to receive ~~annual compensation of \$6,000 or more~~ compensation other than travel and per diem expenses for serving” and inserting: “entitled to receive annual compensation of \$6,000 or more for serving”.

Amend the title of the bill, by deleting the fourth through eighth lines and inserting: “exempting a person”.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 64.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Joint Resolution No. 5.

The following Senate amendment was read:

Amendment No. 981.

Amend the resolution, pages 3 and 4, by deleting lines 24 through 44 on page 3 and lines 1 through 3 on page 4, and inserting:

“2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters *from each congressional district in this State* equal to 10 percent or more of the number of voters who voted at the last preceding general election in ~~not less than 75 percent of the counties in the State, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the~~

~~voters who voted in the entire State at the last preceding general election.] the congressional district. The number of registered voters required to file the initiative petition must be determined at the time the copy of the initiative petition is filed with the Secretary of State pursuant to this Section.~~

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before”.

Amend the resolution, page 4, by deleting lines 37 through 43 and inserting: “be taken on such petition. If the Legislature rejects such proposed statute”.

Amend the resolution, page 5, by deleting lines 18 through 34 and inserting:

“4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning”.

Amend the resolution, page 6, line 15, by deleting: “4 or 5 , ~~for 6,~~” and inserting: “5 or 6,”.

Amend the resolution, page 6, line 18, by deleting “[~~5.] 4.” and inserting “5.”.~~

Amend the resolution, page 6, line 33, by deleting “[~~6.] 5.” and inserting “6.”.~~

Amend the resolution, page 7, by deleting lines 1 through 22.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Joint Resolution No. 5.

Remarks by Assemblyman Conklin.

Motion carried.

Resolution ordered transmitted to the Senate.

Assembly Bill No. 193.

The following Senate amendment was read:

Amendment No. 688.

Amend section 1, page 2, by deleting lines 1 and 2 and inserting: “otherwise affecting:

1. The right of a person to bring an action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

2. The rights, remedies, obligations, duties and liabilities set forth in the provisions of NRS 624.606 to 624.630, inclusive.”.

Amend sec. 2, page 2, line 4, by deleting: “2 and 3” and inserting: “3 to 4.5, inclusive,”.

Amend the bill as whole by adding a new section designated sec. 3.5, following sec. 3, to read as follows:

“Sec. 3.5. “*Work of improvement*” has the meaning ascribed to it in NRS 108.22188.”.

Amend sec. 4, page 2, by deleting lines 7 and 8 and inserting:

“Sec. 4. 1. *“Owner” means an owner or lessee of real property or any improvements thereon who enters into an oral or written agreement with a prime contractor pursuant to which the prime contractor agrees to provide work, materials or equipment for a work of improvement.*

2. *The term includes, without limitation, an owner of a planned unit development who enters into one or more oral or written agreements to construct a work of improvement in the planned unit development in the manner described in subsection 5 of NRS 624.020.”.*

Amend the bill as a whole by adding a new section designated sec. 4.5, following sec. 4, to read as follows:

“Sec. 4.5. *“Prime contractor” means a contractor who enters into an oral or written agreement with an owner pursuant to which the prime contractor agrees to provide work, materials or equipment for a work of improvement.”.*

Amend sec. 5, page 2, line 12, by deleting “*section 2*” and inserting: “*sections 3 and 3.5*”.

Amend sec. 6, page 2, by deleting lines 40 through 43 and inserting:

“5. *A contractor does not include an owner of a planned unit development who enters into one or more oral or written agreements with one or more general building contractors or general engineering contractors to construct a work of improvement in the planned unit development if the general building contractors or general engineering contractors are licensed pursuant to this chapter and contract with the owner of the planned unit development to construct the entire work of improvement.”.*

Amend sec. 7, page 3, lines 3 and 4, by deleting “*section 4*” and inserting: “*sections 4 and 4.5*”.

Amend the bill as whole by adding new sections designated sections 8 and 9, following sec. 7, to read as follows:

“Sec. 8. NRS 624.620 is hereby amended to read as follows:

624.620 1. Except as otherwise provided in this section, any money remaining unpaid for the construction of a work of improvement is payable to the contractor within 30 days after:

(a) Occupancy or use of the work of improvement by the owner or by a person acting with the authority of the owner; or

(b) The availability of a work of improvement for its intended use. The contractor must have given a written notice of availability to the owner on or before the day on which he claims that the work of improvement became available for use or occupancy.

2. If the owner has complied with subsection 3, the owner may:

(a) Withhold payment for the amount of:

(1) Any work or labor that has not been performed or materials or equipment that has not been furnished for which payment is sought;

(2) The costs and expenses reasonably necessary to correct or repair any work that is not materially in compliance with the contract to the extent that

such costs and expenses exceed 50 percent of the amount of retention being withheld pursuant to the terms of the contract; and

(3) Money the owner has paid or is required to pay pursuant to an official notice from a state agency, or employee benefit trust fund, for which the owner is liable for the contractor or his subcontractors in accordance with chapter 608, 612, 616A to 616D, inclusive, or 617 of NRS.

(b) Require, as a condition precedent to the payment of any unpaid amount under the construction contract, that lien releases be furnished by the contractor's subcontractors, suppliers or employees. For purposes of this paragraph:

(1) If the amount due is paid with a check or is not paid concurrently with the owner's receipt of the lien releases, the lien releases must be conditioned upon the check clearing the bank upon which it is drawn and the receipt of payment and shall be deemed to become unconditional upon the receipt of payment; and

(2) The lien releases must be limited to the amount of the payment received.

3. If, pursuant to paragraph (a) of subsection 2, an owner intends to withhold any amount from a payment to be made to a contractor, the owner must, on or before the date the payment is due, give written notice to the contractor of any amount that will be withheld. The written notice must:

(a) Identify the amount that will be withheld from the contractor;

(b) Give a reasonably detailed explanation of the reason the owner will withhold that amount, including, without limitation, a specific reference to the provision or section of the contract, and any documents relating thereto, and the applicable building code, law or regulation with which the contractor has failed to comply; and

(c) Be signed by an authorized agent of the owner.

4. A contractor who receives a notice pursuant to subsection 3 may provide written notice to the owner of the correction of a condition described in the notice received pursuant to subsection 3. The notice of correction must be sufficient to identify the scope and manner of the correction of the condition and be signed by an authorized representative of the contractor. If an owner receives a written notice from the contractor of the correction of a condition described in an owner's notice of withholding pursuant to subsection 3, the owner must, within 10 days after receipt of such notice:

(a) Pay the amount withheld by the owner for that condition; or

(b) Object to the scope and manner of the correction of the condition in a written statement that sets forth the reason for the objection and complies with subsection 3. If the owner objects to the scope and manner of the correction of a condition, he shall nevertheless pay to the contractor, along with payment made pursuant to the contractor's next payment request, the amount withheld for the correction of conditions to which the owner no longer objects.



5. The partial occupancy or availability of a building requires payment in direct proportion to the value of the part of the building which is partially occupied or partially available. For projects which involve more than one building, each building must be considered separately in determining the amount of money which is payable to the contractor.

6. Unless otherwise provided in the construction contract, any money which is payable to a contractor pursuant to this section accrues interest at a rate equal to the lowest daily prime rate at the largest bank in this State, as determined by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding:

- (a) The time the contract was signed; or
- (b) If the contract was oral, the time the terms of the contract were agreed to by the parties,  
plus 2 percent.

7. This section does not apply to:

- (a) Any residential building; or
- (b) Public works.

~~[8. As used in this section, unless the context otherwise requires, "work of improvement" has the meaning ascribed to it in NRS 108.22188.]~~

Sec. 9. This act becomes effective on July 1, 2005."

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 193.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 190.

The following Senate amendment was read:

Amendment No. 740.

Amend section 1, page 2, by deleting lines 24 and 25 and inserting:

"3. *This section does not apply to:*

*(a) A law enforcement officer conducting a criminal investigation or surveillance;*

*(b) A building inspector, building official or other similar authority employed by a governmental body while performing his duties; or*

*(c) An employee of a public utility while performing his duties."*

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

"law enforcement officers, building inspectors and employees of a public utility performing their duties from the prohibition;".

Amend the summary of the bill to read as follows:

"SUMMARY—Prohibits certain persons from entering upon certain property with intent to surreptitiously conceal themselves on property and peer, peep or spy through opening in building or other structure used as dwelling. (BDR 15-631)".

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 190.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 219.

The following Senate amendment was read:

Amendment No. 1009.

Amend sec. 5, page 2, line 32, after “*Chairman.*” by inserting: “*At least one meeting in each calendar year must be held at a location within the Fourth Judicial District, Fifth Judicial District, Sixth Judicial District or Seventh Judicial District.*”.

Amend sec. 6, page 3, line 3, after “2.” by inserting: “*The Council shall:*

*(a) Study and review all appropriate issues related to the administration of the criminal justice system in rural Nevada with respect to offenses involving domestic violence, including, without limitation, the availability of counseling services; and*

*(b) With the assistance of the Court Administrator, based upon the study and review conducted pursuant to paragraph (a), prepare and submit a report of its findings and recommendations to the Director of the Legislative Counsel Bureau, on or before February 1 of each odd-numbered year, for transmittal to the next regular session of the Legislature. In preparing the report, the Council shall solicit comments and recommendations from district judges, municipal judges and justices of the peace in rural Nevada and include in its report, as a separate section, all comments and recommendations that are received by the Council.*

3.”.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 219.

Remarks by Assemblymen Anderson and Ohrenschall.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 528.

The following Senate amendment was read:

Amendment No. 802.

Amend section 1, page 1, line 14, after “*restraint;*” by inserting “*or*”.

Amend section 1, pages 1 and 2, by deleting lines 15 through 17 on page 1 and lines 1 through 10 on page 2.

Amend section 1, page 2, line 11, by deleting “*(i)*” and inserting “*(d)*”.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 528.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 531.

The following Senate amendment was read:

Amendment No. 804.

Amend section 1, page 1, line 10, by deleting: “*a first responder*” and inserting “*another person*”.

Amend section 1, page 2, line 1, by deleting: “*while performing his official duties*”.

Amend section 1, page 2, line 4, after “*person*” by inserting: “*who committed the offense*”.

Amend section 1, page 2, by deleting line 16 and inserting: “*compounded, another person suffers death*”.

Amend section 1, page 2, line 17, by deleting “*official duties*”.

Amend section 1, pages 2 and 3, by deleting lines 34 through 44 on page 2 and lines 1 through 9 on page 3, and inserting:

“4. *As used in this section, “premises” means:*”.

Amend section 1, page 3, line 10, by deleting “(1)” and inserting “(a)”.

Amend section 1, page 3, line 14, by deleting “(2)” and inserting “(b)”.

Amend sec. 2, page 3, line 31, by deleting “*subsection 1*” and inserting “*subsection 2*”.

Amend the title of the bill, second line, by deleting “*first responder*” and inserting “*person*”.

Amend the summary of the bill to read as follows:

“SUMMARY—Provides additional or alternative penalty if person suffers substantial bodily harm or death during discovery or cleanup of premises wherein certain controlled substances were unlawfully manufactured or compounded. (BDR 40-105)”.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 531.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 198, that a conference be requested, and that Mr. Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

#### APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Buckley, Carpenter, and Conklin as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 198.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 338, that a conference be requested, and that Mr. Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Buckley, Carpenter, and Anderson as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 338.

Mr. Speaker appointed Assemblymen Anderson, Allen, and Ocegüera as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 51.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 296.

The following Senate amendment was read:

Amendment No. 894.

Amend section 1, page 1, line 5, by deleting: “*subsections 2 and 3*” and inserting “*subsection 2*”.

Amend section 1, page 1, line 7, by deleting “*care by*” and inserting: “*care:*”

(1) *By*”.

Amend section 1, page 1, line 9, after “*NRS;*” by inserting “*and*”.

Amend section 1, page 1, by deleting line 10 and inserting:

“(2) *Pursuant to:*

(I) *A policy or protocol followed by the operator of the ambulance or air ambulance or the fire-fighting agency that was issued by the county or district board of health and which required the patient to be transported to that major hospital, regardless of whether the patient was admitted to the hospital; or*

(II) *The request of the patient to be transported to the nearest hospital, if the patient was admitted to the hospital; and*”.

Amend section 1, page 1, by deleting line 11 and inserting:

“(b) *Has a policy of health insurance or other contractual provision*”.

Amend section 1, page 2, by deleting lines 2 through 8 and inserting: “*through a contract between the entity that issues the policy of health insurance and at least 50 percent of the hospital systems in the county or through a contract between the third party and at least 50 percent of the hospital systems in the county;*

(2) *That does not provide coverage for emergency services and care provided by the major hospital to which the patient was transported through*

*a contract between the entity that issues the policy of health insurance and the major hospital or through a contract between the third party and the major hospital; and*

*(3) That provided coverage for emergency services and care provided by the major hospital to which the patient was transported through a contract between the entity that issues the policy of health insurance and the major hospital which terminated within 18 months before the patient was transported or through a contract between the third party and the major hospital which terminated within 18 months before the patient was transported.”.*

Amend section 1, page 2, by deleting lines 11 through 13 and inserting:

*“(a) Shall accept as payment in full for such services and care that are provided to the patient before the patient’s condition has been stabilized to a degree that allows the transfer of the patient to another hospital without an additional risk to the patient a rate of 175 percent of the amount the entity that issued the policy of health insurance of the patient or the third party that provides coverage for the patient would have paid for such services and care pursuant to the most recent contract between the entity that issued the policy of health insurance of the patient and the major hospital or pursuant to the contract between the third party that provides coverage for the patient and the major hospital; and”.*

Amend section 1, page 2, by deleting lines 24 and 25 and inserting:

*“(c) “Emergency services and care” means medical screening, examination and evaluation by a physician or, to the extent permitted by a specific statute, by a person under the supervision of a physician to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment and surgery by a physician necessary to relieve or eliminate the emergency medical condition or active labor, within the capability of the hospital, regardless of the area of the hospital in which the services and care are provided. As used in this paragraph:*

*(1) “Active labor” means, in relation to childbirth, labor that occurs when:*

*(I) There is inadequate time before delivery to transfer the patient safely to another hospital; or*

*(II) A transfer may pose a threat to the health and safety of the patient or the unborn child.*

*(2) “Emergency medical condition” means the presence of acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:*

*(I) Placing the health of the patient in serious jeopardy;*

*(II) Serious impairment of bodily functions; or*

*(III) Serious dysfunction of any bodily organ or part.”.*

Amend section 1, page 2, after “(e)” by inserting: *““Health insurance” means insurance offered pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C or 695G of NRS.*

(f) *“Hospital system” means a business entity or governmental entity that owns or operates one or more hospitals in a county, at least one of which has 100 or more beds.*

(g)”.

Amend section 1, page 2, by deleting lines 32 and 33 and inserting: *“the Department pursuant to NRS 450B.237.”*.

Amend section 1, page 2, line 34, by deleting *“(f)”* and inserting *“(h)”*.

Amend section 1, page 2, by deleting line 35 and inserting:

*“(1) An entity that offers policies of health insurance;”*.

Amend section 1, page 2, by deleting line 43 and inserting:

*“(4) Any other health insurer or organization providing comprehensive health”*.

Amend section 1, page 2, after line 44, by inserting:

*“The term “third party” does not include an insurer or organization that provides coverage for emergency services and care only incidentally to providing other coverage, including, without limitation, coverage issued as a supplement to liability insurance and automobile medical payment insurance.”*.

Amend the bill as a whole by renumbering sec. 2 as sec. 3 and adding a new section designated sec. 2, following section 1, to read as follows:

“Sec. 2. 1. The Legislative Committee on Health Care shall:

(a) Include in any comprehensive plan concerning the provision of health care in this State that it develops during the interim a review of the coverage of and payment for emergency services and care provided in this State; and

(b) Determine whether any legislation is needed to address issues concerning the coverage of and payment for emergency services and care provided in this State and submit any recommendations for such legislation to the 74th Session of the Nevada Legislature.

2. As used in this section, “emergency services and care” has the meaning ascribed to it in paragraph (c) of subsection 3 of section 1 of this act.”.

Assemblywoman Leslie moved that the Assembly do not concur in the Senate Amendment No. 894 to Assembly Bill No. 296.

Remarks by Assemblywoman Leslie.

Motion carried.

The following Senate amendment was read:

Amendment No. 1047.

Amend section 1, page 2, line 27, before *“services”* by inserting *“emergency”*.

Amend section 1, page 2, by deleting lines 30 through 37 and inserting: *“another hospital without an additional risk to the patient the product of:*

*(1) One hundred and twenty-five percent of the overall payment rate for billed charges provided for in the most recent contract between the entity that issued the policy of health insurance of the patient and the major*

*hospital or provided for in the most recent contract between the third party that provides coverage for the patient and the major hospital; and*

*(2) The amount of billed charges of the hospital for such emergency services and care on the date on which the most recent contract between the entity that issued the policy of health insurance of the patient and the major hospital or the contract between the third party that provides coverage for the patient and the major hospital expired or was terminated; and”.*

Assemblywoman Leslie moved that the Assembly do not concur in the Senate Amendment No. 1047 to Assembly Bill No. 296.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 84.

The following Senate amendment was read:

Amendment No. 694.

Amend the bill as a whole by renumbering sec. 3 as sec. 10 and adding new sections designated sections 3 through 9, following sec. 2, to read as follows:

“Sec. 3. Chapter 483 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. *The Department shall waive the fee prescribed by NRS 483.410 and the increase in the fee required by NRS 483.347 not more than one time for furnishing a duplicate driver’s license to a homeless person who submits a signed affidavit on a form prescribed by the Department stating that the person is homeless.*

2. *A vendor that has entered into an agreement with the Department to produce photographs for drivers’ licenses pursuant to NRS 483.347 may waive the cost it charges the Department to produce the photograph of a homeless person for a duplicate driver’s license.*

3. *If the vendor does not waive pursuant to subsection 2 the cost it charges the Department and the Department has waived the increase in the fee required by NRS 483.347 for a duplicate driver’s license furnished to a homeless person pursuant to subsection 1, the homeless person shall reimburse the Department in an amount equal to the increase in the fee required by NRS 483.347 if the homeless person:*

- (a) Applies to the Department for the renewal of his driver’s license; and*
- (b) Is employed at the time of such application.*

4. *The Department may accept gifts, grants and donations of money to fund the provision of duplicate drivers’ licenses without a fee to homeless persons.*

Sec. 5. 1. *The Department shall waive the fee prescribed by NRS 483.820 and the increase in the fee required by NRS 483.347 not more than one time for furnishing a duplicate identification card to a homeless person who submits a signed affidavit on a form prescribed by the Department stating that the person is homeless.*

2. *A vendor that has entered into an agreement with the Department to produce photographs for identification cards pursuant to NRS 483.347 may waive the cost it charges the Department to produce the photograph of a homeless person for a duplicate identification card.*

3. *If the vendor does not waive pursuant to subsection 2 the cost it charges the Department and the Department has waived the increase in the fee required by NRS 483.347 for a duplicate identification card furnished to a homeless person pursuant to subsection 1, the homeless person shall reimburse the Department in an amount equal to the increase in the fee required by NRS 483.347 if the homeless person:*

*(a) Applies to the Department for the renewal of his identification card; and*

*(b) Is employed at the time of such application.*

4. *The Department may accept gifts, grants and donations of money to fund the provision of duplicate identification cards without a fee to homeless persons.*

5. *As used in this section, “photograph” has the meaning ascribed to it in NRS 483.125.*

Sec. 6. NRS 483.010 is hereby amended to read as follows:

483.010 The provisions of NRS 483.010 to 483.630, inclusive, *and section 4 of this act* may be cited as the Uniform Motor Vehicle Drivers’ License Act.

Sec. 7. NRS 483.015 is hereby amended to read as follows:

483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, *and section 4 of this act* apply only with respect to noncommercial drivers’ licenses.

Sec. 8. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, *and section 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. NRS 483.347 is hereby amended to read as follows:

483.347 1. Except as otherwise provided in subsection 2, the Department shall issue a rectangular-shaped driver’s license which bears a front view colored photograph of the licensee. The photograph and any information included on the license must be placed in a manner which ensures that:

(a) If the licensee is 21 years of age or older, the longer edges of the rectangle serve as the top and bottom of the license; or

(b) If the licensee is under 21 years of age, the shorter edges of the rectangle serve as the top and bottom of the license.

2. The Department may issue a temporary driver’s license without a photograph of the licensee if the licensee is temporarily absent from this State and requests the renewal of, the issuance of a duplicate of, or a change in the information on, his driver’s license. If the licensee returns to this State



for 14 continuous days or more, the licensee shall, within 24 days after the date of his return, surrender the temporary license and obtain a license which bears his photograph in accordance with subsection 1. A licensee charged with violating the provisions of this subsection may not be convicted if he surrenders the temporary license, obtains a license which bears his photograph in accordance with subsection 1 and produces that license in court or in the office of the arresting officer.

3. The Department shall:

(a) Establish a uniform procedure for the production of drivers' licenses, applicable to renewal as well as to original licenses.

(b) ~~By~~ *Except as otherwise provided in sections 4 and 5 of this act, by regulation, increase the fees provided in NRS 483.410, 483.820 and 483.910 as necessary to cover the actual cost of production of photographs for drivers' licenses and identification cards. The increase must be deposited in the State Treasury for credit to the Motor Vehicle Fund and must be allocated to the Department to defray the increased costs of producing the drivers' licenses required by this section.*

Amend sec. 3, page 3, line 38, by deleting "6," and inserting: "6 ~~1~~ and section 4 of this act,".

Amend sec. 3, page 4, line 20, by deleting "The" and inserting: "~~The~~ *Except as otherwise provided in section 4 of this act, the*".

Amend sec. 3, page 4, by deleting lines 27 through 33 and inserting:

"6. The Department may not charge a fee for the reinstatement of a driver's license that has been:

(a) Voluntarily surrendered for medical reasons; or

(b) Cancelled pursuant to NRS 483.310."

Amend the bill as a whole by renumbering sec. 4 as sec. 14 and adding new sections designated sections 11 through 13, following sec. 3, to read as follows:

"Sec. 11. NRS 483.530 is hereby amended to read as follows:

483.530 1. Except as otherwise provided in subsection 2, it is a misdemeanor for any person:

(a) To display or cause or permit to be displayed or have in his possession any cancelled, revoked, suspended, fictitious, fraudulently altered or fraudulently obtained driver's license;

(b) To alter, forge, substitute, counterfeit or use an unvalidated driver's license;

(c) To lend his driver's license to any other person or knowingly permit the use thereof by another;

(d) To display or represent as one's own any driver's license not issued to him;

(e) To fail or refuse to surrender to the Department, a peace officer or a court upon lawful demand any driver's license which has been suspended, revoked or cancelled;

(f) To permit any unlawful use of a driver's license issued to him;

(g) To do any act forbidden, or fail to perform any act required, by NRS 483.010 to 483.630, inclusive ~~{}~~, *and section 4 of this act*; or

(h) To photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid license, or to display or have in his possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by this chapter.

2. Except as otherwise provided in this subsection, a person who uses a false or fictitious name in any application for a driver's license or identification card or who knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the false statement, knowing concealment of a material fact or other commission of fraud described in this subsection relates solely to the age of a person, including, without limitation, to establish false proof of age to game, purchase alcoholic beverages or purchase cigarettes or other tobacco products, the person is guilty of a misdemeanor.

Sec. 12. NRS 483.620 is hereby amended to read as follows:

483.620 It is a misdemeanor for any person to violate any of the provisions of NRS 483.010 to 483.630, inclusive, *and section 4 of this act*, unless such violation is, by NRS 483.010 to 483.630, inclusive, *and section 4 of this act*, or other law of this State, declared to be a felony.

Sec. 13. NRS 483.630 is hereby amended to read as follows:

483.630 NRS 483.010 to 483.630, inclusive, *and section 4 of this act* shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them.”.

Amend sec. 4, page 4, line 43, after “inclusive,” by inserting: “*and section 5 of this act*”.

Amend sec. 4, page 5, line 6, by deleting “*subsection 3,*” and inserting: “*section 5 of this act,*”.

Amend sec. 4, page 5, line 24, by deleting the brackets and strike-through.

Amend sec. 4, page 5, by deleting lines 26 through 29 and inserting: “age or older.”.

Amend sec. 4, page 5, line 30, by deleting “The” and inserting: “~~The~~ *Except as otherwise provided in section 5 of this act, the*”.

Amend the bill as a whole by renumbering sec. 5 as sec. 16 and adding a new section designated sec. 15, following sec. 4, to read as follows:

“Sec. 15. The Department of Motor Vehicles shall:

1. Encourage each vendor that has entered into an agreement with the Department to produce photographs for drivers' licenses and identification cards pursuant to NRS 483.347 to waive the cost it charges the Department to produce photographs for duplicate drivers' licenses or identification cards furnished to homeless persons pursuant to subsection 2 of section 4 of this act and subsection 2 of section 5 of this act.

2. Prepare a report concerning the provision of duplicate drivers' licenses and identification cards without a fee to homeless persons and submit the report to the Director of the Legislative Counsel Bureau for transmittal to the 74th Session of the Nevada Legislature.”

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 84.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 369.

The following Senate amendment was read:

Amendment No. 850.

Amend section 1, page 1, line 2, by deleting “11,” and inserting “17.”

Amend sec. 2, page 1, line 4, by deleting “11,” and inserting “17.”

Amend sec. 2, page 1, line 6, by deleting “and 4” and inserting: “to 6, inclusive.”

Amend the bill as a whole by renumbering sec. 3 as sec. 4 and adding a new section designated sec. 3, following sec. 2, to read as follows:

“Sec. 3. *“Emotionally disturbed child” has the meaning ascribed to it in NRS 433B.080.*”

Amend sec. 3, page 1, by deleting lines 8 and 9 and inserting:

“Sec. 4. *“Facility” means a psychiatric hospital or facility which provides residential treatment for mental illness that has a unit in the hospital or facility capable of being locked to prevent an emotionally disturbed child from leaving the hospital or facility.*”

Amend the bill as a whole by renumbering sec. 4 as sec. 6 and adding a new section designated sec. 5, following sec. 3, to read as follows:

“Sec. 5. *“Person professionally qualified in the field of psychiatric mental health” has the meaning ascribed to it in NRS 433A.018.*”

Amend the bill as a whole by renumbering sections 5 through 10 as sections 9 through 14 and adding new sections designated sections 7 and 8, following sec. 4, to read as follows:

“Sec. 7. *A proceeding for a court-ordered admission of a child alleged to be an emotionally disturbed child who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:*

1. *By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be emotionally disturbed and has concluded that the child is emotionally disturbed and, because of that condition is likely to harm himself or others if allowed his liberty; or*

2. *By a sworn written statement by the petitioner that:*

*(a) The petitioner has, based upon his personal observation of the child alleged to be emotionally disturbed, probable cause to believe that the child is emotionally disturbed and, because of that condition is likely to harm himself or others if allowed his liberty; and*

*(b) The child alleged to be emotionally disturbed has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.*

Sec. 8. 1. *Except as otherwise provided in section 9 of this act, if the court finds, after proceedings for the court-ordered admission of a child alleged to be an emotionally disturbed child who is in the custody of an agency which provides child welfare services to a facility:*

*(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.*

*(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to section 16 of this act.*

2. *Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which, the court believes may be in the best interests of the child.”.*

Amend sec. 5, page 2, line 3, after “1.” by inserting: *“An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for the court-ordered admission of the child to a facility pursuant to section 7 of this act.*

2. *If a petition for the court-ordered admission of a child filed pursuant to section 7 of this act is accompanied by the information described in subsection 2 of section 7 of this act, the court shall order a psychological evaluation of the child.*

3.”.

Amend sec. 5, page 2, line 4, by deleting: *“NRS 433A.200 for the involuntary”* and inserting: *“section 7 of this act for the”*.

Amend sec. 5, page 2, line 7, by deleting: *“3 of NRS 433A.310”* and inserting: *“2 of section 8 of this act”*.

Amend sec. 5, page 2, line 13, by deleting *“2;”* and inserting *“4;”*.

Amend sec. 5, page 2, line 18, after *“professionals”* by inserting: *“or any adult caretakers”*.

Amend sec. 5, page 2, by deleting line 20 and inserting:

*“4. If a petition for the court-ordered admission of”.*

Amend sec. 5, page 2, line 22, by deleting “NRS 433A.200:” and inserting:  
*“section 7 of this act:”.*

Amend sec. 5, page 2, line 24, by deleting “involuntary”.

Amend sec. 5, page 2, by deleting lines 32 through 36.

Amend sec. 6, page 2, by deleting lines 39 and 40 and inserting: *“been admitted to a facility pursuant to section 8 of this act, the agency which provides child welfare services shall”.*

Amend sec. 6, page 2, line 41, by deleting: *“rights pursuant to NRS 433.472”* and inserting: *“legal rights and the provisions of NRS 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and sections 2 to 17, inclusive, of this act”.*

Amend sec. 6, pages 2 and 3, by deleting lines 44 and 45 on page 2 and lines 1 and 2 on page 3, and inserting: *“that includes a physician, psychiatrist or licensed psychologist other than a physician, psychiatrist or licensed psychologist who performed an original examination which authorized the court to order the admission of the child to the facility.”.*

Amend sec. 7, page 3, line 12, by deleting “NRS 433A.310” and inserting:  
*“sections 8 and 12 of this act”.*

Amend sec. 7, page 3, line 13, by deleting “involuntary”.

Amend sec. 7, page 3, line 19, by deleting: *“social worker or teacher”* and inserting: *“licensed clinical social worker or other professional or any adult caretaker”.*

Amend sec. 7, page 3, line 26, by deleting “involuntary” and inserting  
*“court-ordered”.*

Amend sec. 8, page 3, line 30, by deleting “involuntary”.

Amend sec. 8, page 3, lines 32 and 33, by deleting: *“NRS 433A.310, the involuntary”* and inserting: *“section 8 of this act, the”.*

Amend sec. 8, page 3, line 35, by deleting “NRS 433A.390.” and inserting:  
*“section 16 of this act.”*

Amend sec. 8, page 3, line 39, by deleting “detention” and inserting  
*“admission”.*

Amend sec. 9, page 4, line 1, by deleting “involuntarily”.

Amend sec. 9, page 4, line 2, by deleting “NRS 433A.310” and inserting:  
*“section 8 of this act”.*

Amend sec. 9, page 4, line 7, by deleting “involuntarily”.

Amend sec. 9, page 4, line 8, by deleting “NRS 433A.310” and inserting:  
*“section 8 of this act”.*

Amend sec. 9, page 4, line 9, by deleting “8” and inserting “12”.

Amend sec. 10, page 4, line 26, by deleting “433.482,” and inserting:  
*“433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and sections 2 to 17, inclusive, of this act.”.*

Amend the bill as a whole by renumbering sec. 11 as sec. 17 and adding new sections designated sections 15 and 16, following sec. 10, to read as follows:

*“Sec. 15. 1. Except as otherwise provided in subsection 3, any child who is admitted to a facility by a court pursuant to section 8 of this act may be conditionally released from the facility when, in the judgment of the medical director of the facility, the conditional release is in the best interest of the child and will not be detrimental to the public welfare. The medical director or his designee of the facility shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of treatment specified pursuant to section 12 of this act.*

*2. When a child is conditionally released pursuant to subsection 1, the State or a county, or any of its agents or employees, are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the child.*

*3. A child who was admitted by a court because he was likely to harm others if allowed to remain at liberty may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him and to the attorney of the agency which provides child welfare services that initiated the proceedings for admission.*

*4. Except as otherwise provided in subsection 6, the administrative officer of a facility or his designee shall order a child who is conditionally released from that facility pursuant to this section to return to the facility if a psychiatrist and a member of that child’s treatment team who is professionally qualified in the field of psychiatric mental health determine that the conditional release is no longer appropriate because that child presents a clear and present danger of harm to himself or others. Except as otherwise provided in this subsection, the administrative officer or his designee shall, at least 3 days before the issuance of the order to return, give written notice of the order to the court that admitted the child to the facility. If an emergency exists in which the child presents an imminent threat of danger of harm to himself or others, the order must be submitted to the court not later than 1 business day after the order is issued.*

*5. The court shall review an order submitted pursuant to subsection 4 and the current condition of the child who was ordered to return to the facility at its next regularly scheduled hearing for the review of petitions for court-ordered admissions, but in no event later than 5 judicial days after the child is returned to the facility. The administrative officer or his designee shall give written notice to the agency which provides child welfare services, the child who was ordered to return to the facility and to the child’s attorney of the time, date and place of the hearing and of the facts necessitating that child’s return to the facility.*

*6. The provisions of subsection 4 do not apply if the period of conditional release has expired.*

Sec. 16. 1. *When a child who is admitted to a facility by a court pursuant to section 8 of this act is released at the end of the court-ordered period of treatment specified pursuant to section 12 of this act, written notice must be given to the admitting court at least 10 days before the release of the child. The child may then be released without requiring further orders of the court.*

2. *A child who is admitted to a facility by a court pursuant to section 8 of this act may be unconditionally released before the court-ordered period of treatment specified in section 12 of this act when:*

(a) *An evaluation team, including, without limitation, an evaluation team that conducts an examination pursuant to section 10 of this act, or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the child has recovered from his emotional disturbance or has improved to such an extent that he is no longer considered to present a clear and present danger of harm to himself or others; and*

(b) *Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the facility authorizes the release and gives written notice to the admitting court at least 10 days before the release of the child.”.*

Amend sec. 11, page 4, line 42, by deleting “11,” and inserting “17.”.

Amend the bill as a whole by renumbering sec. 12 as sec. 19 and adding a new section designated sec. 18, following sec. 11, to read as follows:

“Sec. 18. NRS 433A.200 is hereby amended to read as follows:

433A.200 1. ~~[A]~~ *Except as otherwise provided in section 7 of this act, a proceeding for an involuntary court-ordered admission of any person in the State of Nevada may be commenced by the filing of a petition with the clerk of the district court of the county where the person who is to be treated resides. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, psychologist, social worker or registered nurse, by an accredited agent of the Department or by any officer authorized to make arrests in the State of Nevada. The petition must be accompanied:*

(a) *By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the person alleged to be mentally ill and has concluded that the person is a mentally ill person and, because of that illness is likely to harm himself or others if allowed his liberty; or*

(b) *By a sworn written statement by the petitioner that:*

(1) *The petitioner has, based upon his personal observation of the person alleged to be mentally ill, probable cause to believe that the person is a mentally ill person and, because of that illness is likely to harm himself or others if allowed his liberty; and*

(2) The person alleged to be mentally ill has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. ~~It~~ *Except as otherwise provided in section 7 of this act, if the person to be treated is a minor and the petitioner is a person other than a parent or guardian of the minor, the petition must, in addition to the certificate or statement required by subsection 1, include a statement signed by a parent or guardian of the minor that the parent or guardian does not object to the filing of the petition.*

Amend sec. 12, page 5, line 2, by deleting “*section 5*” and inserting: “*sections 8 and 9*”.

Amend sec. 12, page 5, lines 20 and 25, by deleting “8” and inserting “12”.

Amend the bill as a whole by deleting sections 13 and 14 and renumbering sec. 15 as sec. 20.

Amend the title of the bill to read as follows:

“AN ACT relating to children; authorizing an agency which provides child welfare services to file a petition for the court-ordered admission to certain facilities of a child who is alleged to be an emotionally disturbed child and who is in the custody of the agency; requiring a court which is hearing such a petition to place the child in a less restrictive environment under certain circumstances; establishing a maximum period of days for which such children may be ordered by a court to be admitted to certain facilities; establishing certain rights for such children who are admitted to certain facilities; establishing procedures for the conditional and unconditional release of such children under certain circumstances; and providing other matters properly relating thereto.”

Amend the summary of the bill to read as follows:

“SUMMARY—Establishes certain procedures and requirements for court-ordered admission of emotionally disturbed children who are in custody of agencies which provide child welfare services to certain facilities. (BDR 38-717)”.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 369.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 342.

The following Senate amendment was read:

Amendment No. 849.

Amend the bill as a whole by deleting sections 1 and 2 and renumbering sections 3 through 6 as sections 1 through 4.

Amend sec. 4, page 3, line 34, by deleting “Each” and inserting: “~~Each~~ *Except as otherwise provided in subsection 5, each*”.

Amend sec. 4, page 3, between lines 38 and 39 by inserting:



“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.”.

Amend sec. 5, page 4, by deleting lines 2 through 10 and inserting: “[~~Each such institution]~~”

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 ~~proposed operating budget for the following fiscal year at least 30 days before the start of that fiscal year.~~*

~~2.]~~ *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.”.*

Amend sec. 5, page 4, line 11, by deleting “[~~2.]~~”.

Amend sec. 5, page 4, line 12, by deleting: “*in this State*” and inserting: “*with 100 or more beds*”.

Amend sec. 5, page 4, by deleting lines 15 through 30 and inserting:

“(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”.*

Amend sec. 5, page 4, by deleting line 34 and inserting: “*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.”.*

Amend sec. 5, page 4, line 35, by deleting “4.” and inserting “5.”.

Amend sec. 5, page 4, by deleting lines 39 and 40 and inserting: “accurate and complete f-

~~3-~~, 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”.

Amend sec. 5, page 5, line 3, by deleting “6.” and inserting “7.”.

Amend sec. 5, page 5, by deleting lines 7 through 9.

Amend sec. 6, page 5, by deleting line 22 and inserting:

“(b) A summary of the trends of the audits of hospitals in this”.

Amend sec. 6, page 5, line 27, by deleting “policies” and inserting “methodologies”.

Amend sec. 6, page 5, line 28, by deleting “and”.

Amend sec. 6, page 5, line 33, by deleting “manner.” and inserting: “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.”.

Amend sec. 6, pages 5 and 6, by deleting lines 37 through 45 on page 5 and lines 1 through 4 on page 6 and inserting:

“(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.”.

Amend the bill as a whole by adding a new section designated sec. 5, following sec. 6, to read as follows:

“Sec. 5. This act becomes effective upon passage and approval.”.

Amend the title of the bill to read as follows:

“AN ACT relating to health care; expanding the classification of hospitals that the Director of the Department of Human Resources is required to audit to ensure compliance with various provisions to restrain the costs of health care; expanding the classification of hospitals that are required to provide information to the Department in a specific form; making various changes concerning the reporting of financial information by certain hospitals to the Department; making various changes concerning the reporting of information by the Department; requiring the Legislative Committee on Health Care to develop a plan concerning the provision of health care in this State; and providing other matters properly relating thereto.”.

Amend the bill as a whole by adding the following Assemblyman as a primary sponsor: Assemblyman Perkins.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 342.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 454.

The following Senate amendment was read:

Amendment No. 736.

Amend sec. 6, page 2, between lines 34 and 35, by inserting:

*“3. For each regulation adopted pursuant to sections 2 to 12, inclusive, of this act, and submitted to the Legislative Counsel pursuant to NRS 233B.067 for review by the Legislative Commission, the Division shall set forth in the informational statement prepared pursuant to NRS 233B.066 that accompanies the regulation any supported living arrangement services that the regulation authorizes persons to provide pursuant to NRS 632.340 when the persons would otherwise be prohibited from providing such services pursuant to NRS 632.315.”.*

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 454.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 315.

The following Senate amendment was read:

Amendment No. 1000.

Amend section 1, pages 1 and 2, by deleting lines 6 through 13 on page 1 and lines 1 and 2 on page 2, and inserting:

*“vehicle. The disclosure must include, if applicable, a statement that the event recording device:*

*(a) Records the direction and rate of speed at which the motor vehicle travels;*

*(b) Records a history of where the motor vehicle travels;*

*(c) Records steering performance;*

*(d) Records brake performance, including, without limitation, whether the brakes were applied before an accident;*

*(e) Records the status of the driver’s safety belt; and*

*(f) If an accident involving the motor vehicle occurs, is able to transmit information concerning the accident to a central communications system.”.*

Amend section 1, page 2, line 3, by deleting “3.” and inserting “2.”.

Amend section 1, page 2, line 24, by deleting “5” and inserting “4”.

Amend section 1, page 2, line 25, by deleting “4.” and inserting “3.”.

Amend section 1, page 2, line 26, by deleting “3” and inserting “2”.

Amend section 1, page 2, line 29, by deleting “5.” and inserting “4.”.

Amend section 1, page 2, line 31, by deleting “7” and inserting “6”.

Amend section 1, page 2, line 35, by deleting “6.” and inserting “5.”.

Amend section 1, page 2, line 37, by deleting “7.” and inserting “6.”.

Amend section 1, page 3, between lines 10 and 11, by inserting:

“(d) “Owner” means:

(1) *A person having all the incidents of ownership, including the legal title of the motor vehicle, whether or not he lends, rents or creates a security interest in the motor vehicle;*

(2) *A person entitled to possession of the motor vehicle as the purchaser under a security agreement; or*

(3) *A person entitled to possession of the motor vehicle as a lessee pursuant to a lease agreement if the term of the lease is more than 3 months.”.*

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 315.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 169.

The following Senate amendment was read:

Amendment No. 729.

Amend section 1, page 2, line 10, by deleting “registered”.

Amend section 1, page 2, line 13, by deleting: “most recent registered”.

Amend section 1, page 2, by deleting lines 17 through 26 and inserting:

*“1 and if the registration of the vehicle has not expired, the Department shall send by registered or certified mail, return receipt requested, a written notice to the owner of the vehicle stating that the owner must remove or cause the vehicle to be removed from the public lands within 30 days after the date on which the notice was sent.*

*3. If an owner receives a notice pursuant to subsection 2, the owner may submit to the Department an affidavit which states that the owner has taken action which meets the requirements of paragraph (a) or (b) of subsection 2 of NRS 487.220. If the owner submits such an affidavit, the Department:*

*(a) Shall maintain a record of the affidavit; and*

*(b) Shall not suspend the registration of each vehicle currently registered to that owner as otherwise required by subsection 4.*

*4. If an owner:*

*(a) Receives a notice pursuant to subsection 2;*

*(b) Fails to remove or cause the vehicle to be removed within the 30-day period set forth in that notice; and*

*(c) Does not submit an affidavit as described in subsection 3, the Department shall suspend the registration of each vehicle currently registered to the owner pursuant to chapter”.*

Amend section 1, page 3, line 4, by deleting “4.” and inserting “5.”.

Amend section 1, page 3, line 5, by deleting “3,” and inserting “4,”.

Amend section 1, page 3, line 14, by deleting “5.” and inserting “6.”

Amend sec. 3, pages 3 and 4, by deleting lines 41 through 44 on page 3 and line 1 on page 4, and inserting: “by the registered owner thereof. ~~The~~ Except as otherwise provided in section 1 of this act, the registered owner may ~~not~~ rebut this presumption by showing that ~~he~~ :

(a) He transferred his interest in the abandoned vehicle ~~unless he complied with~~ :

(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive ~~;~~ ; or

(2) As indicated by a bill of sale for the vehicle”.

Amend the bill as a whole by adding a new section designated sec. 4, following sec. 3, to read as follows:

“Sec. 4. NRS 487.230 is hereby amended to read as follows:

487.230 1. ~~Any~~ Except as otherwise provided in section 1 of this act, any sheriff, constable, member of the Nevada Highway Patrol, officer of the Legislative Police, investigator of the Division of Compliance Enforcement of the Department, personnel of the Capitol Police Division of the Department of Public Safety, designated employees of the Manufactured Housing Division of the Department of Business and Industry, special investigator employed by the office of a district attorney, marshal or policeman of a city or town, or a marshal or park ranger who is part of a unit of specialized law enforcement established pursuant to NRS 280.125 who has reason to believe that a vehicle has been abandoned on public property in his jurisdiction may remove the vehicle from that property. At the request of the owner or person in possession or control of private property who has reason to believe that a vehicle has been abandoned on his property, the vehicle may be removed by the operator of a tow car or an automobile wrecker from that private property.

2. A person who authorizes the removal of an abandoned vehicle pursuant to subsection 1 shall:

(a) Have the vehicle taken to the nearest garage or other place designated for storage by:

(1) The state agency or political subdivision making the request, if the vehicle is removed from public property.

(2) The owner or person in possession or control of the property, if the vehicle is removed from private property.

(b) Make all practical inquiries to ascertain if the vehicle is stolen by checking the license plate number, vehicle identification number and other available information which will aid in identifying the registered and legal owner of the vehicle and supply the information to the person who is storing the vehicle.”.

Amend the title of the bill by deleting the fourth and fifth lines and inserting: “under which the owner of an abandoned vehicle may rebut the presumption that he”.

Assemblyman Ocegüera moved that the Assembly concur in the Senate Amendment No. 729 to Assembly Bill No. 169.

Remarks by Assemblyman Ocegüera.

Motion carried.

The following Senate amendment was read:

Amendment No. 1064.

Amend the bill as a whole by adding a new section designated sec. 5, following sec. 4, to read as follows:

“Sec. 5. NRS 487.475 is hereby amended to read as follows:

487.475 1. A card authorizing a dealer of new or used motor vehicles or a rebuilder to bid to purchase a vehicle from an operator of a salvage pool must contain:

- (a) The dealer’s or rebuilder’s name and signature;
- (b) His business name;
- (c) His business address;
- (d) His business license number issued by the Department; and
- (e) A picture of the dealer or rebuilder.

2. A dealer or rebuilder may obtain one or two cards for his business. *If a dealer obtains two cards for his business, one of the cards may be issued to a salesman who is an employee of the dealer and who is:*

*(a) Licensed pursuant to NRS 482.362; and*

*(b) Acting as an agent for the dealer in the purchase of a vehicle from an operator of a salvage pool.*

3. The Department shall charge a fee of \$50 for each card issued.

4. A card issued pursuant to this section expires on December 31 of the year in which it was issued. The dealer or rebuilder must submit to the Department an application for renewal accompanied by a renewal fee of \$25 for each card. The application must be made on a form provided by the Department and contain such information as the Department requires.

5. Fees collected by the Department 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.”

Amend the title of the bill, fifth line, after “vehicle;” by inserting: “allowing a card authorizing a dealer of motor vehicles to bid to purchase a vehicle from an operator of a salvage pool to be issued to a salesman who is employed by the dealer;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes relating to removal and disposal of motor vehicles. (BDR 43-967)”.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 169.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 240.

The following Senate amendment was read:

Amendment No. 1013.

Amend section 1, page 2, line 14, by deleting: “*Within 30 days after*” and inserting: “*Not later than 5 days before*”.

Amend section 1, page 2, line 17, by deleting “*makes*” and inserting: “*intends to make*”.

Amend section 1, page 2, by deleting line 19 and inserting: “*the Authority not later than 5 days before the date on which those changes are to become effective. Notwithstanding any provision of this chapter to the contrary, schedules and tariffs submitted by the owner or operator to the Authority pursuant to this section, and the rates set forth in those schedules and tariffs, are not subject to hearing or approval by the Authority.*”.

Amend sec. 4, page 4, line 15, before “Notwithstanding” by inserting “1.”.

Amend sec. 4, page 4, line 17, by deleting “or” and inserting “and”.

Amend sec. 4, page 4, line 18, by deleting “November 1,” and inserting “October 10,”.

Amend sec. 4, page 4, line 20, by deleting “1.” and inserting “(a)”.

Amend sec. 4, page 4, line 25, by deleting “2.” and inserting “(b)”.

Amend sec. 4, page 4, line 26, by deleting “operator.” and inserting: “operator and which will be effective on October 10, 2005. If the owner or operator intends to make a change to its schedule or tariff which is scheduled to become effective on or after October 11, 2005, and before October 16, 2005, the owner and operator shall also include a copy of the updated schedule and tariff.

2. Notwithstanding any provision of this act to the contrary, each owner or operator of a charter bus which is not a fully regulated carrier and which begins operations in this State on or after October 1, 2005, and before October 6, 2005, shall, on or before October 10, 2005, submit to the Transportation Services Authority:

(a) Evidence satisfactory to the Transportation Services Authority that the owner or operator has obtained a liability insurance policy, certificate of insurance, bond of a surety company or other surety as required by subsection 2 of section 1 of this act; and

(b) A copy of its schedule or tariff setting forth the rates established by the owner or operator.”.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 240.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 255.

The following Senate amendment was read:

Amendment No. 862.

Amend section 1, page 2, line 5, by deleting “6” and inserting “7”.

Amend the bill as a whole by renumbering sections 2 through 11 as sections 3 through 12 and adding a new section designated sec. 2, following section 1, to read as follows:

“Sec. 2. Chapter 365 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Department may, by regulation, establish a procedure requiring suppliers to submit tax returns electronically when due pursuant to this chapter.”*

Amend sec. 2, page 2, line 14, by deleting: “3 to 6,” and inserting: “4 to 7,”.

Amend sec. 4, page 2, line 22, by deleting “and” and inserting “or”.

Amend sec. 7, page 3, line 17, by deleting: “3, 4 and 5” and inserting: “4, 5 and 6”.

Amend the bill as a whole by renumbering sections 12 and 13 as sections 14 and 15 and adding a new section designated sec. 13, following sec. 11, to read as follows:

“Sec. 13. NRS 366.383 is hereby amended to read as follows:

366.383 1. Each special fuel supplier shall, not later than the last day of each month:

~~1.~~ (a) Submit to the Department a tax return which sets forth:

~~(a)~~ (1) The number of gallons of special fuel he received during the previous month;

~~(b)~~ (2) The number of gallons of special fuel he sold, distributed or used in this State during the previous month; and

~~(c)~~ (3) The number of gallons of special fuel he sold, distributed or used in this State in which dye was added during the previous month.

~~2.~~ (b) Pay to the Department the tax imposed pursuant to NRS 366.190 on all special fuel sold, distributed or used during the previous month for which dye was not added in the manner prescribed in this chapter.

2. *The Department may, by regulation, establish a procedure requiring special fuel suppliers to submit tax returns required by this section electronically.”*

Amend sec. 13, page 6, lines 16, 21 and 25, by deleting “6” and inserting “7”.

Amend the bill as a whole by renumbering sec. 14 as sec. 18 and adding new sections designated sections 16 and 17, following sec. 13, to read as follows:

“Sec. 16. NRS 373.080 is hereby amended to read as follows:

373.080 All motor vehicle fuel taxes collected during any month by the Department pursuant to a contract with ~~any county shall~~ a county must be transmitted each month by the Department to ~~such~~ the county and the Department shall, in accordance with the terms of the contract, charge the county for the Department’s services specified in this section and in NRS



373.070 . [~~such amount as will reimburse the Department for the cost to it of rendering the services.]~~

Sec. 17. Notwithstanding any amendatory provisions of sections 2 and 13 of this act to the contrary, the Department of Motor Vehicles shall not require a supplier or special fuel supplier to submit a tax return electronically before July 1, 2006.”.

Amend the title of the bill, ninth line, after “action;” by inserting: “authorizing the Department to adopt regulations that require the electronic filing of certain tax returns;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Revises certain provisions relating to taxation of fuels. (BDR 32-1258)”.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 255.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 348.

The following Senate amendment was read:

Amendment No. 938.

Amend section 1, page 1, lines 6 and 10, by deleting “*infrared*”.

Amend section 1, page 2, by deleting lines 3 through 7 and inserting:

“2. *Except as otherwise provided in this subsection, a person shall not in this State sell or offer for sale any device or mechanism, including, without limitation, a mobile transmitter, that is capable of interfering with or altering the signal of a traffic-control signal. The provisions of this subsection do not prohibit a person from selling or offering for sale:*

*(a) To a provider of mass transit, a signal prioritization device; or*

*(b) To a response agency, a signal preemption device or a signal prioritization device, or both.*

3. *A police officer.*”.

Amend section 1, page 2, lines 9 and 15, by deleting “*infrared*”.

Amend section 1, page 2, line 23, by deleting “3.” and inserting “4.”.

Amend section 1, page 2, line 25, by deleting “2” and inserting “3”.

Amend section 1, page 2, by deleting line 28 and inserting:

“5. *Except as otherwise provided in subsection 8, the*”.

Amend section 1, page 2, line 30, by deleting “*infrared*”.

Amend section 1, pages 2 and 3, by deleting lines 36 through 44 on page 2 and lines 1 through 6 on page 3, and inserting:

“6. *A person who violates the provisions of subsection 1 or 2 is guilty of a misdemeanor.*

7. *A provider of mass transit shall not operate or cause to be operated a signal prioritization device in such a manner as to impede or interfere with the use by response agencies of signal preemption devices.*

8. *The provisions of this section do not:*

(a) *Except as otherwise provided in subsection 7, prohibit a provider of mass transit from acquiring, possessing or operating a signal prioritization device.*

(b) *Prohibit a response agency from acquiring, possessing or operating a signal preemption device or a signal prioritization device, or both.*

9. *As used in this section:*

(a) *“Mobile transmitter” means a device or mechanism that is:*

(1) *Portable, installed within a vehicle or capable of being installed within a vehicle; and*

(2) *Designed to affect or alter, through the emission or transmission of sound, infrared light, strobe light or any other audible, visual or electronic method, the normal operation of a traffic-control signal.*

*The term includes, without limitation, a signal preemption device and a signal prioritization device.*

(b) *“Provider of mass transit” means a governmental entity or a contractor of a governmental entity which operates, in whole or in part:*

(1) *A public transit system, as that term is defined in NRS 377A.016; or*

(2) *A system of public transportation referred to in NRS 373.1165.*

(c) *“Response agency” means an agency of this State or of a political subdivision of this State that provides services related to law enforcement, firefighting, emergency medical care or public safety. The term includes a nonprofit organization or private company that, as authorized pursuant to chapter 450B of NRS:*

(1) *Provides ambulance service; or*

(2) *Provides intermediate or advanced medical care to sick or injured persons at the scene of an emergency or while transporting those persons to a medical facility.*

(d) *“Signal preemption device” means a mobile transmitter that, when activated and when a vehicle equipped with such a device approaches an intersection controlled by a traffic-control signal, causes:*

(1) *The signal, in the direction of travel of the vehicle, to remain green if the signal is already displaying a green light;*

(2) *The signal, in the direction of travel of the vehicle, to change from red to green if the signal is displaying a red light;*

(3) *The signal, in other directions of travel, to remain red or change to red, as applicable, to prevent other vehicles from entering the intersection; and*

(4) *The applicable functions described in subparagraphs (1), (2) and (3) to continue until such time as the vehicle equipped with the device is clear of the intersection.*

(e) *“Signal prioritization device” means a mobile transmitter that, when activated and when a vehicle equipped with such a device approaches an intersection controlled by a traffic-control signal, causes:*

(1) *The signal, in the direction of travel of the vehicle, to display a green light a few seconds sooner than the green light would otherwise be displayed;*

(2) *The signal, in the direction of travel of the vehicle, to display a green light for a few seconds longer than the green light would otherwise be displayed; or*

(3) *The functions described in both subparagraphs (1) and (2).*

(f) *“Traffic-control signal” means a traffic-control signal, as defined in NRS 484.205, which is capable of receiving and responding to an emission or transmission from a mobile transmitter.”.*

Amend the title of the bill to read as follows:

“AN ACT relating to traffic laws; prohibiting the operation of, and the operation of a vehicle equipped with, any device or mechanism capable of interfering with or altering the signal of a traffic-control signal; prohibiting the sale in this State of such devices and mechanisms; providing certain exceptions for response agencies and providers of mass transit; providing a penalty; providing for an increased penalty under certain circumstances; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Prohibits unauthorized sale or use of device or mechanism capable of interfering with or altering signal of traffic-control signal. (BDR 43-38)”.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 348.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 416.

The following Senate amendment was read:

Amendment No. 731.

Amend section 1, page 2, line 6, by deleting “[~~seven~~] eight” and inserting “seven”.

Amend section 1, page 2, line 14, by deleting “Two representatives” and inserting “One representative”.

Amend sec. 3, page 4, line 10, by deleting “Four” and inserting “Three”.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 416.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 407.

The following Senate amendment was read:

Amendment No. 789.

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

“Section 1. Chapter 565 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Notwithstanding any provision of this chapter to the contrary, if a governmental entity seizes any privately owned animals subject to brand inspection pursuant to this chapter, the Department or its authorized inspector shall not issue brand inspection clearance certificates or permits to remove the animals from a brand inspection district or for the transfer of ownership of the animals by sale or otherwise unless:*

*(a) Before the seizure, the governmental entity obtains approval for the seizure from a court of competent jurisdiction; and*

*(b) The governmental entity submits a copy of the order approving the seizure to the Department or its authorized inspector.*

2. *The provisions of this section do not apply to:*

*(a) An estray, as defined in NRS 569.0075;*

*(b) Feral livestock, as defined in NRS 569.008;*

*(c) A wild horse or burro, as defined in 16 U.S.C. § 1332;*

*(d) An animal that is impounded or sold by the Department pursuant to NRS 575.060; or*

*(e) An animal that is seized by a governmental entity to protect the health and safety of the public or to prevent cruelty to animals.”.*

Amend the title of the bill to read as follows:

“AN ACT relating to animals; prohibiting the State Department of Agriculture or its authorized inspector from issuing a brand inspection clearance certificate or permit to remove animals from a brand inspection district under certain circumstances; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Prohibits State Department of Agriculture from issuing brand inspection clearance certificate or permit to remove animals from brand inspection district under certain circumstances. (BDR 50-685)”.

Assemblyman Claborn moved that the Assembly concur in the Senate amendment to Assembly Bill No. 407.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 168.

The following Senate amendment was read:

Amendment No. 762.

Amend section 1, page 3, by deleting line 23 and inserting:

“7. *If the State Board denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to*

correct any deficiencies identified in the written notice and resubmit the application.

8. If the State Board denies ~~[the application,]~~ an application after it has been resubmitted pursuant to subsection 7, the applicant may,”.

Amend section 1, page 3, between lines 26 and 27, by inserting:

“9. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district or the State Board during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.”.

Amend the title of the bill, third line, after “Education;” by inserting: “requiring the Superintendent of Public Instruction to submit a report to the Legislature concerning the applications to form charter schools that were submitted during the preceding biennium;”.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 168.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 180.

The following Senate amendment was read:

Amendment No. 765.

Amend sec. 2, page 9, line 38, by deleting: “located. If applicable,” and inserting: “located ~~[-If applicable,]~~, or a”.

Amend sec. 2, page 10, by deleting lines 24 through 27 and inserting: “not more than 30 days after receipt of the written notice of denial. ~~[If an applicant proposes to form a charter school exclusively for the enrollment of pupils who receive special education pursuant to NRS 388.440 to 388.520, inclusive, the]~~ An applicant may also submit the written”.

Amend sec. 5, page 14, line 15, by deleting the comma and inserting: “located in a county whose population is 100,000 or more,”.

Amend sec. 10, page 22, line 2, after “used” by inserting: “as the only criteria”.

Amend sec. 12, page 24, line 14, by deleting “1” and inserting “2”.

Amend sec. 13, page 24, line 20, by deleting “6” and inserting “7”.

Amend the title of the bill by deleting the sixth through ninth lines and inserting: “trustees of a larger school district to enroll pupils who reside in the district before enrolling pupils who reside outside the district; revising the

provisions governing the licensed personnel of a charter school; revising provisions governing the use of certain accountability information in the evaluation of teachers; revising the provisions”.

Amend the summary of the bill to read as follows:

“SUMMARY—Revises provisions governing charter schools and automated system of accountability information for public schools. (BDR 34-1034)”.

Assemblywoman Parnell moved that the Assembly do not concur in the Senate Amendment No. 765 to Assembly Bill No. 180.

Remarks by Assemblywoman Parnell.

Motion carried.

The following Senate amendment was read:

Amendment No. 1105.

Amend sec. 10, page 22, by deleting line 24 and inserting:

“(e) *may be used for the purpose of improving the achievement of pupils and improving classroom instruction but must not be used for the purpose of*”.

Amend the title of the bill, by deleting the tenth and eleventh lines and inserting: “governing the use of certain accountability information; revising the provisions”.

Assemblywoman Parnell moved that the Assembly do not concur in the Senate Amendment No. 1105 to Assembly Bill No. 180.

Remarks by Assemblywoman Parnell.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 280.

The following Senate amendment was read:

Amendment No. 1104.

Amend sec. 2, page 2, line 10, after “*institution.*” by inserting: “*The System is encouraged to review the core curriculum at each institution to determine whether there is parity among the institutions of the System.*”.

Amend the bill as a whole by deleting sec. 4 and adding a new section designated sec. 4, following sec. 3, to read as follows:

“Sec. 4. *The Board of Regents may appoint a student adviser who has been elected by the Nevada Student Alliance. If the Board appoints such an adviser to the Board, the Board shall determine the duties of the adviser, who is not a member of the Board and may not vote on matters before the Board.*”.

Amend sec. 5, page 3, line 17, by deleting: “*and research services*” and inserting “*facilities*”.

Amend sec. 5, page 3, line 19, after “*the*” by inserting “*library*”.

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

“Sec. 7. NRS 396.560 is hereby amended to read as follows:

396.560 1. Upon the recommendation of a president of a branch within the System, the Board of Regents shall issue to those who worthily complete the full course of study in the school of mines or in the school of agriculture, or in the school of liberal arts, or in any equivalent course that may hereafter be prescribed, a diploma of graduation, conferring the proper academic degree, from the System.

2. The Board of Regents shall not issue such a diploma to a ~~person~~ student who has not completed the full course of study as set forth in ~~subsection 1.~~ this section.

3. *For the purposes of this section, a student at a university or state college within the System completes the full course of study for a diploma of graduation if, in accordance with the policy of the Board of Regents, he satisfies the requirements for graduation and a degree as set forth in the catalog of the university or state college that is in effect at the time the student:*

*(a) First enrolls in the university or state college or is admitted to the academic program or department of the student's major if the program or department has a formal process for admitting students to the program or department; or*

*(b) Graduates, whichever the student elects. A student who changes his major must elect the catalog of the year of the latest change of the major or the year of graduation. A student may not elect a catalog that is more than 10 years old at the time of his graduation.”*

Amend sec. 7, page 4, line 13, by deleting “A” and inserting: “Pursuant to the policy of the Board of Regents, a”.

Amend sec. 7, page 4, by deleting lines 18 through 22 and inserting:

“3. *All credits earned toward the completion of a degree of associate of arts, associate of science or associate of business must automatically transfer toward the course work required for the award of a baccalaureate degree upon the graduation of the student from any university or college within the System.*

*If the transfer of credit pursuant to this section is denied and the student believes that the credit should be applied to his degree, he may appeal the decision. The appeal process must be made available to all students and may be posted on the website of the System.”*

Amend the bill as a whole by deleting sec. 8.

Amend sec. 11, page 8, by deleting lines 12 and 13 and inserting:

“Sec. 11. 1. This section and sections 1 to 5, inclusive, 8, 9 and 10 of this act become effective upon passage and approval.

2. Section 7 of this act becomes effective on July 1, 2005.”

Amend sec. 11, page 8, line 14, by deleting “2.” and inserting “3.”.

Amend the title of the bill to read as follows:

“AN ACT relating to higher education; requiring the Board of Regents of the University of Nevada to ensure that students enrolled in a program for the

education of teachers are instructed in the academic standards required for high school pupils; authorizing the Board of Regents to appoint a student advisor who has been elected by the Nevada Student Alliance; requiring access to library facilities for students enrolled at an institution within the University and Community College System of Nevada; specifying that a student at a university or state college within the System completes a full course of study for the issuance of a diploma of graduation from the System if he satisfies the requirements for graduation and a degree as set forth in the catalog of the university or state college that is in effect at the time of enrollment or at the time of graduation, whichever the student elects; revising the terms of office of members of the Board of Regents; revising provisions regarding the degrees and transferability of credits earned within the System; and providing other matters properly relating thereto.”

Assemblywoman Parnell moved that the Assembly concur in the Senate Amendment No. 1104 to Assembly Bill No. 280.

Remarks by Assemblywoman Parnell.

Motion carried.

The following Senate amendment was read:

Amendment No. 1114.

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

“Sec. 4. (Deleted by amendment).”

Amend the title of the bill by deleting the fifth through seventh lines and inserting: “school pupils; requiring access to library facilities for”.

Assemblywoman Parnell moved that the Assembly concur in the Senate Amendment No. 1114 to Assembly Bill No. 280.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 142.

The following Senate amendment was read:

Amendment No. 841.

Amend sec. 5, page 2, by deleting lines 21 through 24 and inserting: “*must obtain an order of a court that requires the county assessor to maintain the personal information of the person in a confidential manner. Such an order must be based on a sworn affidavit by the person, which affidavit:*

(a) *States that the affiant qualifies as a person listed in section 6 of this act; and*

(b) *Sets forth sufficient justification for the request for confidentiality.*”

Amend sec. 8, page 4, lines 5 and 6, by deleting: “*station for a journalistic purpose.*” and inserting “*station.*”

Amend sec. 8, page 4, line 7, by deleting “*A*” and inserting: “*Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a*”.



Amend the bill as a whole by deleting sec. 16 and renumbering sec. 17 as sec. 16.

Assemblyman Parks moved that the Assembly concur in the Senate amendment to Assembly Bill No. 142.

Remarks by Assemblyman Parks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 355.

The following Senate amendment was read:

Amendment No. 845.

Amend section 1, page 1, by deleting lines 11 through 15 and inserting: *“the premises during the pendency of the action, the person shall pay the rent and comply with all other provisions set forth in the underlying contract for possession of the premises. If the person fails to pay such rent or comply with the other provisions of the contract, the landlord may initiate proceedings for eviction. If the person is evicted, the housing authority is not required to issue a new voucher for housing assistance to the person unless and until the person prevails in the action for judicial review.”*.

Assemblyman Parks moved that the Assembly concur in the Senate amendment to Assembly Bill No. 355.

Remarks by Assemblyman Parks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 456.

The following Senate amendment was read:

Amendment No. 780.

Amend section 1, page 3, by deleting lines 21 through 25.

Amend section 1, page 3, line 26, by deleting “8.” and inserting “7.”.

Amend the title of the bill by deleting the tenth through thirteenth lines and inserting: to a contract with a design-build team; revising the”.

Assemblyman Parks moved that the Assembly concur in the Senate amendment to Assembly Bill No. 456.

Remarks by Assemblyman Parks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegura moved that Standing Rule No. 92, which pertains to notices of bills, topics and public hearing, be suspended.

Remarks by Assemblyman Ocegura.

Motion carried unanimously.

Assemblywoman Buckley moved that the Assembly recess until 4:00 p.m.

Motion carried.

Assembly in recess at 1:43 p.m.

ASSEMBLY IN SESSION

At 4:39 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Ways and Means, to which were referred Assembly Bill No. 562; Senate Bill No. 512, 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 re-referred Assembly Bill No. 47, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY, *Chairman*

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 485.

The following Senate amendment was read:

Amendment No. 1058.

Amend the bill as a whole by renumbering sections 1 and 2 as sections 2 and 3 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. NRS 463.021 is hereby amended to read as follows:

463.021 1. The Gaming Policy Committee, consisting of the Governor as Chairman and 10 members, is hereby created.

2. The Committee must be composed of:

(a) One member of the Commission, designated by the Chairman of the Commission;

(b) One member of the Board, designated by the Chairman of the Board;

(c) One member of the Senate appointed by the Legislative Commission;

(d) One member of the Assembly appointed by the Legislative Commission;

(e) One enrolled member of a Nevada Indian tribe appointed by the Inter-Tribal Council of Nevada, Inc.; and

(f) Five members appointed by the Governor for terms of 2 years as follows:

(1) Two representatives of the general public;

(2) Two representatives of nonrestricted gaming licensees; and

(3) One representative of restricted gaming licensees.

3. Members who are appointed by the Governor serve at the pleasure of the Governor.

4. Members who are Legislators serve terms beginning when the Legislature convenes and continuing until the next regular session of the Legislature is convened.

5. ~~Except as otherwise provided in subsection 6, the~~ The Governor may call meetings of the Gaming Policy Committee for the exclusive purpose of discussing matters of gaming policy. The recommendations concerning gaming policy made by the Committee pursuant to this subsection are advisory and not binding on the Board or the Commission in the performance of their duties and functions.

~~{6.—An appeal filed pursuant to NRS 463.3088 may be considered only by a Review Panel of the Committee. The Review Panel must consist of the members of the Committee who are identified in paragraphs (a), (b) and (c) of subsection 2 and subparagraph (1) of paragraph (f) of subsection 2.}~~

Amend the bill as a whole by renumbering sec. 3 as sec. 8 and adding new sections designated sections 4 through 7, following sec. 2, to read as follows:

“Sec. 4. NRS 463.3086 is hereby amended to read as follows:

463.3086 1. If the location of a proposed establishment:

(a) Is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone; and

(b) Is not within a gaming enterprise district,

the Commission shall not approve a nonrestricted license for the establishment unless the location of the establishment is designated a gaming enterprise district pursuant to this section.

2. If a person is proposing to operate an establishment with a nonrestricted license and the location of the proposed establishment:

(a) Is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone; and

(b) Is not within a gaming enterprise district,

the person may petition the county, city or town having jurisdiction over the location of the proposed establishment to designate the location of the proposed establishment a gaming enterprise district pursuant to this section.

3. If a person files a petition pursuant to subsection 2, the county, city or town shall, at least 10 days before the date of the hearing on the petition, mail a notice of the hearing to:

(a) Each owner of real property whose property line is less than 2,500 feet from the property line of the proposed establishment;

(b) The owner, as listed on the county assessor’s records, of each of the 30 separately owned parcels nearest the proposed establishment, to the extent this notice does not duplicate the notice given pursuant to paragraph (a);

(c) Each tenant of a mobile home park whose property line is less than 2,500 feet from the property line of the proposed establishment; and

(d) Any advisory board that represents one or more owners of real property or tenants of a mobile home park whose property line is less than 2,500 feet from the property line of the proposed establishment.

The notice must be written in language that is easy to understand and must set forth the date, time, place and purpose of the hearing and contain a physical description or map of the location of the proposed establishment. The petitioner shall pay the costs of providing the notice that is required by this subsection.

4. Any interested person is entitled to be heard at the hearing on the petition.

5. The county, city or town shall cause the hearing on the petition to be reported by a court reporter who is certified pursuant to chapter 656 of NRS. The petitioner shall pay the costs of having the hearing reported.

6. At the hearing, the petitioner must prove by clear and convincing evidence that:

(a) The roads, water, sanitation, utilities and related services to the location are adequate;

(b) The proposed establishment will not unduly impact public services, consumption of natural resources and the quality of life enjoyed by residents of the surrounding neighborhoods;

(c) The proposed establishment will enhance, expand and stabilize employment and the local economy;

(d) The proposed establishment will be located in an area planned or zoned for that purpose pursuant to NRS 278.010 to 278.630, inclusive;

(e) The proposed establishment will not be detrimental to the health, safety or general welfare of the community or be incompatible with the surrounding area;

(f) On the date that the petition was filed, the property line of the proposed establishment was not less than:

(1) Five hundred feet from the property line of a developed residential district; and

(2) Fifteen hundred feet from the property line of a public school, private school or structure used primarily for religious services or worship; ~~and~~

(g) The proposed establishment will not adversely affect:

(1) A developed residential district; or

(2) A public school, private school or structure used primarily for religious services,

whose property line is within 2,500 feet from the property line of the proposed establishment ~~[-]~~; and

(h) *The proposed establishment will be located within a gaming enterprise district that will be located entirely within the boundaries of a master planned community.*

7. A three-fourths vote of the governing body of the county, city or town is required to grant the petition to designate the location of the proposed establishment a gaming enterprise district pursuant to this section.

8. *If the governing body of the county, city or town grants the petition to designate the location of the proposed establishment a gaming enterprise*

*district, the governing body shall, at the hearing held pursuant to this section, establish limitations on the height and size of the proposed establishment.*

9. A county, city or town that denies a petition submitted pursuant to this section shall not consider another petition concerning the same location or any portion thereof for 1 year after the date of the denial.

~~9.~~ 10. As used in this section:

(a) “Developed residential district” means a parcel of land zoned primarily for residential use in which at least one completed residential unit has been constructed on the date that the petitioner files a petition pursuant to this section.

(b) “Master planned community” means a contiguous area of land that:

(1) Contains at least 750 acres owned or controlled by a single entity;

(2) Contains a mix of land uses that include residential, commercial, employment and public uses;

(3) Contains not more than one gaming enterprise district and not more than one establishment that holds a nonrestricted license; and

(4) Has not more than 75 acres designated as a gaming enterprise district.

(c) “Private school” has the meaning ascribed to it in NRS 394.103.

~~(e)~~ (d) “Public school” has the meaning ascribed to it in NRS 385.007.

Sec. 5. NRS 463.3088 is hereby repealed.

Sec. 6. 1. Notwithstanding the provisions of paragraph (b) of subsection 4 of NRS 463.302, as amended by section 3 of this act, the Nevada Gaming Control Board may, in its sole and absolute discretion, allow a licensee to move the location of its establishment and transfer its restricted or nonrestricted license pursuant to the provisions of NRS 463.302, as amended by section 3 of this act, if:

(a) The establishment holds a nonrestricted license on the effective date of this act but is not a resort hotel;

(b) The establishment is located in a county whose population is 400,000 or more and is located within a redevelopment area of the county on the effective date of this act;

(c) The establishment is acquired, displaced or relocated pursuant to a redevelopment project undertaken by an agency created pursuant to NRS 279.382 to 279.685, inclusive;

(d) The establishment is to be relocated within the redevelopment area of the county to a proposed location that is within 200 feet of the existing location of the establishment;

(e) The establishment will have a casino area that is less than or equal to the size of the casino area of the existing establishment; and

(f) The redevelopment agency and the board of county commissioners approve the move of the location of the establishment at a public hearing that is conducted in compliance with the provisions of subsection 2.

2. A public hearing to consider the move of the location of an establishment must comply with the following requirements:

(a) At least 10 days before the date of the public hearing, a notice of the hearing must be mailed to:

(1) Each owner of real property whose property line is less than 2,500 feet from the property line of the proposed location of the establishment;

(2) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the proposed location of the establishment, to the extent this notice does not duplicate the notice given pursuant to any other provision of this paragraph;

(3) Each tenant of a mobile home park whose property line is less than 2,500 feet from the property line of the proposed location of the establishment; and

(4) Any advisory board that represents one or more owners of real property or tenants of a mobile home park whose property line is less than 2,500 feet from the property line of the proposed location of the establishment.

(b) The notice mailed pursuant to paragraph (a) must be written in language that is easy to understand and must set forth the date, time, place and purpose of the public hearing and contain a physical description or map of the proposed location of the establishment.

(c) The licensee shall pay the costs of providing the notice that is required pursuant to paragraph (a).

(d) Any interested person is entitled to be heard at the public hearing.

Sec. 7. 1. The amendatory provisions of section 4 of this act do not apply to an establishment that holds a nonrestricted license for a resort hotel on the effective date of this act and all parcels of land that are adjacent to the property line of the establishment or adjacent to a street or highway that is adjacent to the property line of such an establishment, if such parcels are owned or leased by the same person or entity, or any affiliate of the person or entity, which owns or leases the property on which the establishment is located.

2. After a county, city or town makes a decision on a petition filed pursuant to NRS 463.3086, as amended by section 4 of this act, by an establishment described in subsection 1:

(a) The petitioner may appeal to the Committee if the petition is denied; or

(b) An aggrieved party may appeal to the Committee if the petition is granted.

3. A notice of appeal must be filed with the Committee not later than 10 days after the date of the decision on the petition.

4. The Committee may hear only one appeal from the decision on the petition.

5. The Committee shall determine whether a person who files a notice of appeal is an aggrieved party. If more than one person files a notice of appeal,

the Committee shall consolidate the appeals of all persons who the Committee determines are aggrieved parties.

6. If the petitioner files a notice of appeal, the county, city or town that denied the petition shall be deemed to be the opposing party, and the county, city or town may elect to defend its decision before the Committee.

7. If a notice of appeal is filed by the petitioner or an aggrieved party, the petitioner shall request the court reporter to prepare a transcript of the report of the hearing on the petition, and the petitioner shall pay the costs of preparing the transcript.

8. The Committee shall consider the appeal not later than 30 days after the date the notice of appeal is filed. The Committee may accept written briefs or hear oral arguments, or both. The Committee shall not receive additional evidence and shall confine its review to the record. In reviewing the record, the Committee may substitute its judgment for that of the county, city or town and may make its own determinations as to the sufficiency and weight of the evidence on all questions of fact or law.

9. The Committee shall issue its decision and written findings not later than 30 days after the appeal is heard or is submitted for consideration without oral argument. The Committee shall affirm or reverse the decision of the county, city or town and shall grant or deny the petition in accordance with its affirmance or reversal.

10. Any party to the appeal before the Committee may appeal the decision of the Committee to grant or deny the petition to the district court. A party must file such an appeal not later than 20 days after the date of the decision of the Committee.

11. The Committee may take any action that is necessary to carry out the provisions of this section. Any action that is taken by the Committee pursuant to this section must be approved by a majority vote of the membership of the Committee.

12. As used in this section, "Committee" means the Review Panel of the Gaming Policy Committee which consists of the members of the Gaming Policy Committee who are identified in paragraphs (a), (b) and (e) of subsection 2 of NRS 463.021 and subparagraph (1) of paragraph (f) of subsection 2 of NRS 463.021."

Amend the bill as a whole by adding the text of the repealed section, following sec. 3, to read as follows:

“

#### TEXT OF REPEALED SECTION

463.3088 Gaming enterprise district: Procedure for appealing denial or grant of petition to designate location outside of Las Vegas Boulevard gaming corridor and rural Clark County gaming zone.

1. After a county, city or town makes a decision on a petition filed pursuant to NRS 463.3086:

(a) The petitioner may appeal to the Committee if the petition is denied; or

(b) An aggrieved party may appeal to the Committee if the petition is granted.

2. A notice of appeal must be filed with the Committee not later than 10 days after the date of the decision on the petition.

3. The Committee may hear only one appeal from the decision on the petition.

4. The Committee shall determine whether a person who files a notice of appeal is an aggrieved party. If more than one person files a notice of appeal, the Committee shall consolidate the appeals of all persons who the Committee determines are aggrieved parties.

5. If the petitioner files a notice of appeal, the county, city or town that denied the petition shall be deemed to be the opposing party, and the county, city or town may elect to defend its decision before the Committee.

6. If a notice of appeal is filed by the petitioner or an aggrieved party, the petitioner shall request the court reporter to prepare a transcript of the report of the hearing on the petition, and the petitioner shall pay the costs of preparing the transcript.

7. The Committee shall consider the appeal not later than 30 days after the date the notice of appeal is filed. The Committee may accept written briefs or hear oral arguments, or both. The Committee shall not receive additional evidence and shall confine its review to the record. In reviewing the record, the Committee may substitute its judgment for that of the county, city or town and may make its own determinations as to the sufficiency and weight of the evidence on all questions of fact or law.

8. The Committee shall issue its decision and written findings not later than 30 days after the appeal is heard or is submitted for consideration without oral argument. The Committee shall affirm or reverse the decision of the county, city or town and shall grant or deny the petition in accordance with its affirmance or reversal.

9. Any party to the appeal before the Committee may appeal the decision of the Committee to grant or deny the petition to the district court. A party must file such an appeal not later than 20 days after the date of the decision of the Committee.

10. The Committee may take any action that is necessary to carry out the provisions of this section. Any action that is taken by the Committee pursuant to this section must be approved by a majority vote of the membership of the Committee.

11. As used in this section, "Committee" means the Review Panel of the Gaming Policy Committee as provided in subsection 6 of NRS 463.021."

Amend the title of the bill, sixth line, after "location;" by inserting: "revising provisions governing the designation of gaming enterprise districts;"

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 1058 to Assembly Bill No. 485.

Remarks by Assemblyman Anderson.



Motion carried.

The following Senate amendment was read:

Amendment No. 1095.

Amend sec. 7, page 7, line 26, by deleting: “on the effective date of this act”.

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 1095 to Assembly Bill No. 485.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 1106.

Amend the bill as a whole by renumbering section 1 of the bill as sec. 1.7 and adding new sections designated sections 1 through 1.5, following the enacting clause, to read as follows:

“Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. 1. *After a county, city or town makes a decision on a petition filed pursuant to NRS 463.3086:*

*(a) The petitioner may appeal to the arbitrator if the petition is denied; or*

*(b) An aggrieved party may appeal to the arbitrator if the petition is granted.*

2. *A notice of appeal must be filed with the arbitrator not later than 10 days after the date of the decision on the petition.*

3. *The arbitrator may hear only one appeal from the decision on the petition.*

4. *The arbitrator shall determine whether a person who files a notice of appeal is an aggrieved party. If more than one person files a notice of appeal, the arbitrator shall consolidate the appeals of all persons who the arbitrator determines are aggrieved parties.*

5. *If the petitioner files a notice of appeal, the county, city or town that denied the petition shall be deemed to be the opposing party, and the county, city or town may elect to defend its decision before the arbitrator.*

6. *If a notice of appeal is filed by the petitioner or an aggrieved party, the petitioner shall request the court reporter to prepare a transcript of the report of the hearing on the petition, and the petitioner shall pay the costs of preparing the transcript.*

7. *The arbitrator shall consider the appeal not later than 30 days after the date the notice of appeal is filed. The arbitrator may accept written briefs or hear oral arguments, or both. The arbitrator shall not receive additional evidence and shall confine his review to the record. In reviewing the record, the arbitrator shall not substitute his judgment for that of the county, city or town. The arbitrator may reverse the decision of the county, city or town only if:*

(a) *The county, city or town failed to comply with the requirements pertaining to notice and hearing of the petition in accordance with the provisions of subsections 3, 4 and 5 of NRS 463.3086;*

(b) *The county, city or town granted the petition without complying with the provisions of subsection 7, 8 or 9 of NRS 463.3086; or*

(c) *There is no evidence in the record to support the decision of the county, city or town.*

8. *The arbitrator shall issue his decision and written findings not later than 30 days after the appeal is heard or is submitted for consideration without oral argument. The arbitrator shall affirm or reverse the decision of the county, city or town and shall grant or deny the petition in accordance with the affirmance or reversal.*

9. *Any party to the appeal before the arbitrator may appeal the decision of the arbitrator to grant or deny the petition to the district court. A party must file such an appeal not later than 20 days after the date of the decision of the arbitrator.*

10. *The arbitrator may take any action that is necessary to carry out the provisions of this section.*

11. *As used in this section, “arbitrator” means an arbitrator appointed by the arbitration commissioner in accordance with the provisions of the Nevada Arbitration Rules.*

Sec. 1.5. 1. *If a county, city or town decides to authorize an increase in the height or size of a proposed establishment, an aggrieved party may appeal the decision to the arbitrator.*

2. *A notice of appeal must be filed with the arbitrator not later than 10 days after the date of the decision.*

3. *The arbitrator may hear only one appeal from the decision.*

4. *The arbitrator shall determine whether a person who files a notice of appeal is an aggrieved party. If more than one person files a notice of appeal, the arbitrator shall consolidate the appeals of all persons who the arbitrator determines are aggrieved parties.*

5. *If an aggrieved party files a notice of appeal, the proposed establishment and the county, city or town that authorized the increase in the height or size of the proposed establishment shall be deemed to be the opposing parties, and the proposed establishment and the county, city or town may elect to defend the decision before the arbitrator.*

6. *If a notice of appeal is filed by an aggrieved party, the proposed establishment shall request the court reporter to prepare a transcript of the report of the hearing on the decision, and the proposed establishment shall pay the costs of preparing the transcript.*

7. *The arbitrator shall consider the appeal not later than 30 days after the date the notice of appeal is filed. The arbitrator may accept written briefs or hear oral arguments, or both. The arbitrator shall not receive additional evidence and shall confine his review to the record. In reviewing the record, the arbitrator shall not substitute his judgment for that of the county, city or*

*town. The arbitrator may reverse the decision of the county, city or town only if there is not substantial evidence in the record to support the decision of the county, city or town.*

*8. The arbitrator shall issue his decision and written findings not later than 30 days after the appeal is heard or is submitted for consideration without oral argument. The arbitrator shall affirm or reverse the decision of the county, city or town.*

*9. Any party to the appeal before the arbitrator may appeal the decision of the arbitrator to the district court. A party must file such an appeal not later than 20 days after the date of the decision of the arbitrator.*

*10. The arbitrator may take any action that is necessary to carry out the provisions of this section.*

*11. As used in this section, “arbitrator” means an arbitrator appointed by the arbitration commissioner in accordance with the provisions of the Nevada Arbitration Rules.”*

Amend the bill as a whole by adding a new section designated sec. 3.5, following sec. 3, to read as follows:

“Sec. 3.5. NRS 463.3074 is hereby amended to read as follows:

463.3074 The provisions of NRS 463.3072 to 463.3094, inclusive, *and sections 1.3 and 1.5 of this act* apply to establishments and gaming enterprise districts that are located in a county whose population is 400,000 or more.”

Amend sec. 7, pages 7 and 8, by deleting lines 35 through 44 on page 7 and lines 1 through 36 on page 8, and inserting:

“(a) If the petition is denied, the petitioner may appeal the decision of the county, city or town in accordance with the provisions of section 1.3 of this act; or

(b) If the petition is granted, an aggrieved party may appeal the decision of the county, city or town in accordance with the provisions of section 1.3 of this act.”

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 1106 to Assembly Bill No. 485.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Leslie moved that the Assembly do not recede from its actions on Senate Bill No. 296, that a conference be requested, and that Mr. Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Leslie.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Parnell, Gerhardt and Hardy as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 296.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Leslie moved that Assembly Bill No. 460 be taken from the Chief Clerk's desk and placed at the top of the General File.

Remarks by Assemblywoman Leslie.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 87.

The following Senate amendment was read:

Amendment No. 924.

Amend the bill as a whole by deleting sections 1 through 5 and the text of the repealed section and adding new sections designated sections 1 through 4, following the enacting clause, to read as follows:

“Section 1. NRS 608.250 is hereby amended to read as follows:

608.250 1. Except as otherwise provided in this section, the *minimum wage which may be paid to employees in private employment within the State who are 18 years of age or older is \$6.40 per hour or the amount established by federal law, whichever is greater.*

2. *The Labor Commissioner shall, in accordance with federal law, establish by regulation the minimum wage which may be paid to employees in private employment within the State ~~[-]~~ who are under 18 years of age. The Labor Commissioner shall prescribe increases in ~~the~~ that minimum wage in accordance with those prescribed by federal law, unless he determines that those increases are contrary to the public interest.*

~~[-]~~ 3. The provisions of ~~[subsection]~~ *subsections 1 and 2* do not apply to:

- (a) Casual babysitters.
- (b) Domestic service employees who reside in the household where they work.
- (c) Outside salespersons whose earnings are based on commissions.
- (d) Employees engaged in an agricultural pursuit for an employer who did not use more than 500 man-days of agricultural labor in any calendar quarter of the preceding calendar year.
- (e) Taxicab and limousine drivers.
- (f) Severely handicapped persons whose disabilities have diminished their productive capacity in a specific job and who are specified in certificates issued by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation.

~~3.~~ 4. It is unlawful for any person to employ, cause to be employed or permit to be employed, or to contract with, cause to be contracted with or permit to be contracted with, any person for a wage less than that ~~established by the Labor Commissioner~~ required to be paid to the person pursuant to the provisions of this section.

Sec. 2. NRS 608.260 is hereby amended to read as follows:

608.260 If any employer pays any employee a lesser amount than the minimum wage ~~prescribed by regulation of the Labor Commissioner~~ required to be paid to the employee pursuant to the provisions of NRS 608.250, the employee may, at any time within 2 years, bring a civil action to recover the difference between the amount paid to the employee and the amount of ~~the~~ that minimum wage. A contract between the employer and the employee or any acceptance of a lesser wage by the employee is not a bar to the action.

Sec. 3. At the General Election on November 7, 2006, a question must be submitted to the registered voters of this State in substantially the following form:

Shall the minimum wage which may be paid to employees in private employment within the State who are 18 years of age or older be established by statute at \$6.40 per hour or the amount established by federal law, whichever is greater, subject to certain statutory exceptions?

Sec. 4. 1. This section and section 3 of this act become effective on October 1, 2005.

2. Sections 1 and 2 of this act become effective on October 1, 2006.

3. Sections 1 and 2 of this act expire by limitation on December 1, 2006:

(a) Unless the voters, at the General Election on November 7, 2006, approve the question submitted pursuant to section 3 of this act; or

(b) If the voters, at the General Election on November 7, 2006, approve the question amending the Nevada Constitution to raise the minimum wage paid to employees that was presented in the initiative petition entitled "Raise the Minimum Wage for Working Nevadans.".

Amend the title of the bill to read as follows:

"AN ACT relating to employment; establishing a statutory minimum wage for certain employees in this State; providing for the adjustment of the minimum wage; requiring the submission to the voters of a question regarding the minimum wage; and providing other matters properly relating thereto."

Assemblywoman Giunchigliani moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 87.

Remarks by Assemblywoman Giunchigliani.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 19.

The following Senate amendment was read:

Amendment No. 858.

Amend section 1, page 3, line 9, by deleting “*promotional*” and inserting: “*promotional, rebate, incentive*”.

Amend section 1, page 3, by deleting lines 38 through 40 and inserting: “*record*”.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 19.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 183.

The following Senate amendment was read:

Amendment No. 860.

Amend the bill as a whole by deleting sections 1 through 3 and adding new sections designated sections 1 through 7, following the enacting clause, to read as follows:

“Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. “*Licensed practical nurse*” has the meaning ascribed to it in NRS 632.016.

Sec. 3. “*Nursing assistant*” has the meaning ascribed to it in NRS 632.0166.

Sec. 4. “*Registered nurse*” has the meaning ascribed to it in NRS 632.019.

Sec. 5. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.019, inclusive, and sections 2, 3 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~an~~ :

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

~~(a)~~ (1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

~~(b)~~ (2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

~~(c)~~ (3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of

Osteopathic Medicine or another governmental entity relating to conduct described in ~~paragraph (a) or (b)~~ subparagraph (1) or (2).

(b) *A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who, in accordance with the policy, if any, established by the medical facility:*

(1) *Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and*

(2) *Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless such refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto.*

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility* because the employee, *registered nurse, licensed practical nurse or nursing assistant* has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility* to take an action described in subsection 1.

4. As used in this section:

(a) “Physician” means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

(b) “Retaliate or discriminate”:

(1) Includes, without limitation, the following action if such action is taken solely because the employee *or the registered nurse, licensed practical nurse or nursing assistant* took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the employee works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include action described in ~~subparagraphs~~ *sub-subparagraphs* (I) to (X), inclusive, of ~~paragraph~~ *subparagraph* (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 7. NRS 449.207 is hereby amended to read as follows:

449.207 An employee of a medical facility *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility* who believes that he has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction for such relief as may be appropriate under the law.”

Amend the title of the bill to read as follows:

“AN ACT relating to nursing; prohibiting medical facilities from retaliating or discriminating unfairly against registered nurses, licensed practical nurses and nursing assistants for refusing to provide nursing services under certain circumstances; providing that nurses subjected to such retaliation or discrimination may file an action in a court of competent jurisdiction for appropriate relief; and providing other matters properly relating thereto.”

Amend the summary of the bill to read as follows:

“SUMMARY—Prohibits medical facilities from retaliating or discriminating unfairly against certain nurses for refusing to provide nursing services under certain circumstances. (BDR 40-927)”

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 183.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 186.

The following Senate amendment was read:

Amendment No. 861.

Amend section 1, page 2, lines 31 through 33, by deleting: “, *including, without limitation, any amount of money that the Administrator has determined is required to fund the payments required pursuant to section 2 of this act,*”

Amend section 1, pages 2 and 3, by deleting line 39 on page 1 and line 1 on page 2, and inserting: “expenditures for claims of each group of insurers. After allocating the”.

Amend sec. 2, page 3, line 41, by deleting “4,” and inserting “3,”.

Amend sec. 2, page 4, by deleting lines 3 through 24 and inserting: “*the payments calculated pursuant to subsection 3.*”

Amend sec. 2, page 4, line 25, by deleting “4.” and inserting “3.”



Amend sec. 2, page 4, by deleting lines 26 and 27 and inserting: “*method for the equitable distribution of the money withdrawn from the Account pursuant to subsection 2. The regulations must*”.

Amend sec. 2, page 4, line 29, by deleting: “*collected from the assessment*”.

Amend sec. 2, page 4, line 35, by deleting “5.” and inserting “4.”.

Amend the bill as a whole by renumbering sec. 3 as sec. 4 and adding a new section designated sec. 3, following sec. 2, to read as follows:

“Sec. 3. Notwithstanding the provisions of subsection 4 of section 2 of this act, the Administrator shall make the first payment required by section 2 of this act to each claimant and dependant of the claimant who is entitled to the payment not later than December 31, 2005.”.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 186.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 455.

The following Senate amendment was read:

Amendment No. 1089.

Amend section 1, page 2, by deleting line 2 and inserting: “thereto a new section to read as follows:

1. *A county clerk may provide the form for the application to register to vote prescribed by the Secretary of State pursuant to NRS 293.507 to a candidate, major political party, minor political party or any other person submitting a request pursuant to subsection 2.*

2. *A candidate, major political party, minor political party or other person shall:*

(a) *Submit a request for forms for the application to register to vote to the county clerk in person, by telephone, in writing or by facsimile machine; and*

(b) *State the number of forms for the application to register to vote that the candidate, major political party, minor political party or other person is requesting.*

3. *The county clerk may record the control numbers assigned to the forms by the Secretary of State pursuant to NRS 293.507 of the forms he provided in response to the request. The county clerk shall maintain a request for multiple applications with his records.”.*

Amend the bill as a whole by deleting sections 2 through 4 and adding:

“Secs. 2-4. (Deleted by amendment.)”.

Amend sec. 5, page 3, lines 19 and 20, by deleting: “[~~made available~~] *designated*” and inserting “made available”.

Amend sec. 5, page 3, by deleting lines 24 through 30 and inserting: “of a building governed by this subsection shall designate and approve the area required by this subsection for the building.”.

Amend sec. 5, page 3, by deleting lines 37 and 38 and inserting:

“3. A person aggrieved by a decision made by a”.

Amend sec. 5, pages 3 and 4, by deleting lines 43 and 44 on page 3 and lines 1 and 2 on page 4, and inserting: “subsection 1 ~~[ ]~~ or 2. *If the Secretary of State determines that the public officer or employee violated subsection 1 or 2 and that a person was denied the use of a public building for the purpose of gathering signatures on a petition, the Secretary of State shall order that the deadline for filing the petition provided pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be extended for a period equal to the time that the person was denied the use of a public building for the purpose of gathering signatures on a petition, but in no event may the deadline be extended for a period of more than 5 days.*”

4. The decision of the Secretary of State is a final”.

Amend sec. 5, page 4, line 13, by deleting “*petition.*” and inserting: “*petition, but in no event may the deadline be extended for a period of more than 5 days.*”.

Amend the bill as a whole by deleting sec. 6 and adding:

“Sec. 6. (Deleted by amendment.)”.

Amend sec. 7, page 5, lines 18 and 19, by deleting: “~~[second] fourth Tuesday in [July] April~~” and inserting: “second Tuesday in ~~[July] June~~”.

Amend sec. 7, page 5, line 26, by deleting: “~~[first] third Tuesday in [June] March~~” and inserting: “first Tuesday in ~~[June] May~~”.

Amend sec. 7, page 5, line 27, by deleting: “~~[fourth] second Tuesday in [July.] May.~~” and inserting: “fourth Tuesday in ~~[July.] June.~~”.

Amend sec. 7, page 5, line 41, by deleting: “~~[second] fourth Tuesday in [July] April~~” and inserting: “second Tuesday in ~~[July] June~~”.

Amend sec. 7, page 5, by deleting lines 42 and 43 and inserting: “before 5 p.m. ~~[of the second Tuesday in September]~~ on the first Tuesday after the primary election must be filled by the person who receives the next”.

Amend sec. 7, page 6, by deleting lines 2 and 3 and inserting: “election after 5 p.m. ~~[of the second Tuesday in September]~~ on the first Tuesday after the primary election of the year in which the general”.

Amend sec. 7, page 6, by deleting lines 8 and 9 and inserting: “or before 5 p.m. on the ~~[second Tuesday in September.] first Tuesday after the primary election.~~ In each case, the statutory filing fee must be”.

Amend sec. 8, page 6, by deleting lines 37 and 38 and inserting:

“2. No change may be made on the ballot after the ~~[second Tuesday in September] first Tuesday after the primary election~~ of the year in”.

Amend sec. 8, page 6, by deleting lines 42 and 43 and inserting: “be filed with the Secretary of State before 5 p.m. ~~[of the second Tuesday in September.] on the first Tuesday after the primary election,~~ and the”.

Amend the bill as a whole by deleting sections 9 and 10 and adding:

“Secs. 9 and 10. (Deleted by amendment.)”.

Amend sec. 11, page 8, by deleting lines 18 and 19 and inserting:

“293.175 1. The primary election must be held on the ~~first Tuesday of September~~ *twelfth Tuesday before the general election* in each even-numbered year.”

Amend the bill as a whole by deleting sections 13 through 27 and adding:  
“Secs. 13-27. (Deleted by amendment.)”

Amend sec. 28, page 21, by deleting line 23 and inserting: “before 5 p.m. on the ~~third Thursday in August~~ *second Thursday before the primary election* and”.

Amend sec. 29, page 21, lines 29 and 30, by deleting: “~~second~~ *fourth* Tuesday in ~~July,~~ *May,*” and inserting: “second Tuesday in ~~July,~~ *June,*”.

Amend sec. 29, page 21, lines 43 and 44, by deleting: “of the ~~second~~ *first* Tuesday in ~~September,~~ *July,*” and inserting: “~~of the second Tuesday in September,~~ *on the first Tuesday after the primary election,*”.

Amend the bill as a whole by deleting sections 30 and 31 and adding:  
“Secs. 30 and 31. (Deleted by amendment.)”

Amend sec. 32, page 25, by deleting line 34 and inserting:

“(a) *If the person who assists an elector with completing the form*”.

Amend sec. 32, page 25, line 35, by deleting “vote,” and inserting: “*vote retains the form,*”.

Amend the bill as a whole by deleting sec. 34 and adding new sections designated sections 34 and 34.5, following sec. 33, to read as follows:

“Sec. 34. NRS 293B.063 is hereby amended to read as follows:

293B.063 No mechanical voting system may be used in this State unless it meets or exceeds the standards for voting systems established by the Federal Election Commission ~~[-]~~ *pursuant to federal law.*

Sec. 34.5. NRS 293B.104 is hereby amended to read as follows:

293B.104 The Secretary of State shall not approve any mechanical voting system which does not meet or exceed the standards for voting systems established by the Federal Election Commission ~~[-]~~ *pursuant to federal law.*”.

Amend sec. 35, page 27, line 45, by deleting “*April*” and inserting “*June*”.

Amend the bill as a whole by deleting sections 36 through 51 and adding:

“Secs. 36-51. (Deleted by amendment.)”

Amend sec. 52, page 40, by deleting line 8 and inserting: “~~first Tuesday in September preceding the~~ *date fixed by the election laws of this State for statewide elections, at which time there must be nominated candidates for the office to be voted for at the next*”.

Amend the title of the bill to read as follows:

“AN ACT relating to elections; providing that a primary election must be conducted on the twelfth Tuesday before a general election in an even-numbered year; revising the provisions governing areas at public buildings for the use in gathering of signatures on a petition; revising the provision governing the form for application to register to vote; revising the provisions governing registering to vote before an election; providing a penalty; and providing other matters properly relating thereto.”

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 455.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 384.

The following Senate amendment was read:

Amendment No. 869.

Amend sec. 2, page 1, line 5, by deleting: “3 to 21,” and inserting: “2.5 to 21.5,”.

Amend the bill as a whole by adding a new section designated sec. 2.5, following sec. 2, to read as follows:

“Sec. 2.5. 1. *“Automated loan machine” means any machine or other device, regardless of the name given to it or the technology used, that:*

*(a) Is automated;*

*(b) Is designed or intended to allow a customer, without any additional assistance from another person, to receive or attempt to receive a deferred deposit loan or short-term loan through the machine or other device; and*

*(c) Is set up, installed, operated or maintained by or on behalf of the person making the loan or any agent, affiliate or subsidiary of the person.*

2. *The term does not include any machine or other device used directly by a customer to access the Internet unless the machine or other device is made available to the customer by the person making the loan or any agent, affiliate or subsidiary of the person.”.*

Amend sec. 8, page 2, by deleting lines 30 and 31 and inserting: *“the extension or repayment plan does not violate the provisions of this chapter.”.*

Amend sec. 9, page 2, line 35, by deleting “written” and inserting “loan”.

Amend sec. 9, page 3, line 2, by deleting “the electronic” and inserting “an electronic”.

Amend the bill as a whole by adding a new section designated sec. 15.5, following sec. 15, to read as follows:

“Sec. 15.5. *“Refund anticipation loan” means a loan offered or made to a taxpayer by a lender or through a facilitator based on the taxpayer’s anticipated federal income tax refund.”.*

Amend sec. 16, page 3, by deleting lines 32 and 33 and inserting:

“Sec. 16. *“Regulation Z” means the federal regulations, as amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in Lending Act and commonly known as Regulation Z.”.*

Amend sec. 17, page 3, by deleting lines 37 through 43 and inserting:

*“(a) Charges an annual percentage rate of more than 40 percent; and*

*(b) Requires the loan to be paid in full in less than 1 year.*

2. *The term does not include:*

*(a) A deferred deposit loan;*

*(b) A title loan; or*

*(c) A refund anticipation loan.”.*

Amend sec. 19, page 4, by deleting lines 5 through 11 and inserting:  
“pursuant to a loan agreement which, under its original terms:

*(a) Charges an annual percentage rate of more than 35 percent; and*

*(b) Requires the customer to secure the loan by giving possession of the title to a vehicle legally owned by the customer to the person making the loan, or to any agent, affiliate or subsidiary of the person, whether or not the person making the loan or taking possession of the title perfects a security interest in the vehicle by having the person’s name noted on the title as a lienholder.*

*2. The term does not include:*

*(a) A loan which creates a purchase-money security interest in a vehicle or the refinancing of any such loan; or*

*(b) Any other loan for which a vehicle is used as security or collateral if the person making the loan,”.*

Amend sec. 21, page 4, by deleting lines 17 through 19 and inserting:

“Sec. 21. “Title to a vehicle” or “title” means a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar”.

Amend the bill as a whole by adding new sections designated sections 21.2 through 21.8, following sec. 21, to read as follows:

“Sec. 21.2. “Truth in Lending Act” means the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.

Sec. 21.5. 1. “Vehicle” means any vehicle, whether or not self-propelled, that is designed or intended for land transportation if the legal owner of the vehicle is required to have a title.

*2. The term includes, without limitation:*

*(a) Passenger vehicles;*

*(b) Recreational vehicles; and*

*(c) House trailers and travel trailers.*

*3. The term does not include:*

*(a) Farm vehicles;*

*(b) Vehicles of a common or contract carrier;*

*(c) Commercial vehicles;*

*(d) Construction vehicles;*

*(e) Military vehicles;*

*(f) Vehicles used exclusively upon stationary rails or tracks; or*

*(g) Any other vehicles which are similar in nature to the vehicles listed in paragraphs (a) to (f), inclusive, and which the Commissioner, by regulation, excludes from the definition of “vehicle.”*

Sec. 21.8. 1. As used in this chapter, unless the context otherwise requires, the following terms have the meanings ascribed to them in the Truth in Lending Act and Regulation Z:

*(a) “Amount financed.”*

*(b) “Annual percentage rate.”*

(c) *“Finance charge.”*

(d) *“Payment schedule.”*

(e) *“Total of payments.”*

2. *For the purposes of this chapter, proper calculation of the amount financed, annual percentage rate and finance charge for a loan must be made in accordance with the Truth in Lending Act and Regulation Z.”*

Amend sec. 23, page 4, line 28, before *“loan,”* by inserting: *“loan or an extension of a”*.

Amend sec. 23, page 4, line 30, by deleting: *“fees or interest”* and inserting: *“additional fees or additional interest”*.

Amend sec. 27, page 6, between lines 6 and 7, by inserting:

*“15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service.”*

Amend sec. 28, page 6, by deleting lines 7 through 13 and inserting:

*“Sec. 28. 1. The Commissioner may establish by regulation the fees that a licensee who provides check-cashing services may impose for cashing checks.*

*2. The Commissioner shall adopt any other regulations as are”*.

Amend sec. 29, page 6, line 24, by deleting *“means.”* and inserting: *“means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3.*

*3. A person shall not operate a deferred deposit loan service or short-term loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to conduct business through any automated loan machine.”*

Amend sec. 30, page 6, by deleting lines 26 through 29 and inserting: *“every location at which he conducts business under his license:*

*(a) A notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, short-term loan services or title loan services.*

*(b) A notice that states a toll-free telephone number to the Office of the Commissioner to handle concerns or complaints of customers.*

*The Commissioner shall adopt regulations prescribing the form and size of the notices required by this subsection.”*

Amend sec. 30, page 6, line 33, after *“means,”* by inserting: *“except for an automated loan machine prohibited by section 29 of this act,”*.

Amend sec. 31, page 7, by deleting lines 11 through 25 and inserting:

*“(b) The nature of the security for the loan, if any;*

*(c) The date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;*

*(d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;*

*(e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;*

*(f) A disclosure stating that, if the customer defaults on the loan, the customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at least 90 days, and that the licensee must offer the repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle; and*

*(g) Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.”*

Amend sec. 32, page 7, line 30, after “Act,” by inserting “as amended.”

Amend sec. 32, page 7, line 33, by deleting “initiates” and inserting “commences”.

Amend sec. 32, page 7, line 39, by deleting “is” and inserting “was”.

Amend sec. 32, page 7, after line 45, by inserting:

“3. Notwithstanding any provision of NRS 66.010 to the contrary, if:

*(a) A licensee intends to commence a civil action in a justice’s court against a customer to collect a debt; and*

*(b) The customer resides in the county where the loan was made, the licensee is required to commence the civil action in the justice’s court for the township where the loan was made unless, after the date of default and before the licensee commences the civil action, the customer signs an affidavit agreeing to try the action in another justice’s court having jurisdiction over the subject matter and the parties. A licensee shall not, directly or indirectly, require, intimidate, threaten or coerce a customer to sign such an affidavit.”*

Amend sec. 33, page 8, line 12, after “Garnish” by inserting: “or threaten to garnish”.

Amend sec. 33, page 8, line 14, after “Contact” by inserting: “or threaten to contact”.

Amend the bill as a whole by adding a new section designated sec. 33.5, following sec. 33, to read as follows:

“Sec. 33.5. 1. A licensee shall not:

*(a) Make a deferred deposit loan that exceeds 25 percent of the expected gross monthly income of the customer when the loan is made; or*

*(b) Make a short-term loan which, under the terms of the loan agreement, requires any monthly payment that exceeds 25 percent of the expected gross monthly income of the customer.*

2. A licensee is not in violation of the provisions of this section if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that:

(a) For a deferred deposit loan, the loan does not exceed 25 percent of his expected gross monthly income when the loan is made; or

(b) For a short-term loan, the monthly payment required under the terms of the loan agreement does not exceed 25 percent of his expected gross monthly income.”.

Amend sec. 34, page 8, by deleting lines 19 through 38 and inserting:

“Sec. 34. A licensee shall not make more than one deferred deposit loan or short-term loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:

1. The customer is seeking multiple loans that do not exceed the limits set forth in section 33.5 of this act;

2. The licensee charges the same or a lower annual percentage rate for any additional loans as he charged for the initial loan;

3. Except for that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or short-term loans in accordance with the provisions of subsection 2 of section 43 of this act may charge a reasonable fee for preparing documents in an amount that does not exceed \$50; and

4. If the additional loans are deferred deposit loans and the”.

Amend sec. 35, page 9, line 2, by deleting “motor”.

Amend sec. 35, page 9, by deleting lines 7 through 22 and inserting:

“(d) More than one check or written authorization for an electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for an electronic transfer of money for any deferred deposit loan in an amount which exceeds the total of payments set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z.

3. Take any instrument, including a check or written authorization for an electronic transfer of money, in which blanks”.

Amend sec. 36, page 9, by deleting lines 36 through 38 and inserting:

“2. Commence a civil action or any process of alternative dispute resolution or repossess a vehicle before the customer defaults under the original term of a loan agreement or before the customer defaults under any repayment plan, extension or grace period negotiated and agreed”.

Amend sec. 36, page 10, line 2, before “payment” by inserting “the”.

Amend the bill as a whole by adding a new section designated sec. 36.5, following sec. 36, to read as follows:



“Sec. 36.5. *Notwithstanding any other provision of this chapter to the contrary:*

1. *The original term of a title loan must not exceed 30 days.*

2. *The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:*

(a) *Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;*

(b) *The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and*

(c) *No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan.”.*

Amend sec. 37, page 10, line 18, by deleting “*motor*”.

Amend sec. 37, page 10, by deleting line 27 and inserting: “*obligations, employment and ownership of the vehicle; and*”.

Amend sec. 38, page 10, line 30, by deleting “*chapter,*” and inserting “*section,*”.

Amend sec. 38, page 10, line 35, by deleting: “*to commence a legal action*”.

Amend sec. 38, page 10, lines 36, 40, 41 and 43, by deleting “*motor*”.

Amend sec. 38, page 11, lines 1 and 3, by deleting “*motor*”.

Amend sec. 38, page 11, by deleting lines 4 through 15 and inserting: “*before he entered into the title loan.*”

3. *If a vehicle is repossessed pursuant to this section:*

(a) *By the licensee or his employees, the licensee shall make reasonably available to the customer any personal property in or upon the vehicle; or*

(b) *By a third party acting on behalf of the licensee, the licensee shall instruct the third party to make reasonably available to the customer any personal property in or upon the vehicle.*

4. *If a customer uses fraud to secure a title loan or if the customer wrongfully transfers any interest in the vehicle to a third party before the title loan is repaid, the licensee may bring a civil action against the customer for any or all of the following relief:*

(a) *The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, less any prior payments made by the customer;”.*

Amend sec. 38, page 11, line 24, by deleting “*motor*”.

Amend sec. 39, page 11, line 31, by deleting “*loan.*” and inserting “*loan,*”.

Amend sec. 39, page 12, line 6, by deleting “*motor*”.

Amend sec. 40, page 12, line 14, by deleting “customer,” and inserting: “customer as permitted under this chapter.”

Amend sec. 40, page 12, line 23, by deleting “motor”.

Amend sec. 42, pages 13 and 14, by deleting lines 7 through 45 on page 13 and lines 1 through 22 on page 14, and inserting:

“Sec. 42. 1. *Before a licensee attempts to collect the outstanding balance on a loan in default by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:*

*(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and*

*(b) Is not required to make such an offer more than once for each loan.*

2. *Not later than 15 days after the date of default, the licensee shall provide to the customer written notice of the opportunity to enter into a repayment plan. The written notice must:*

*(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;*

*(b) State the date by which the customer must act to enter into a repayment plan;*

*(c) Explain the procedures the customer must follow to enter into a repayment plan;*

*(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;*

*(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days after the date of default; and*

*(f) Include the following amounts:*

*(1) The total of payments or the remaining balance on the original loan;*

*(2) Any payments made on the loan;*

*(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and*

*(4) The total amount due if the customer enters into a repayment plan.*

3. *Under the terms of any repayment plan pursuant to this section:*

*(a) The customer must enter into the repayment plan not later than 30 days after the date of default, unless the licensee allows a longer period;*

*(b) The licensee must allow the period for repayment to extend at least 90 days after the date of default, unless the customer agrees to a shorter term;*

*(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;*

*(d) For a deferred deposit loan:*

*(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for an electronic transfer of money which equal the total amount due under the terms of the repayment plan;*

(2) *The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped “void” or destroy the check or written authorization; and*

(3) *The licensee shall not charge any fee to the customer pursuant to section 45 of this act for a check which is provided as security during the repayment plan and which is not paid upon presentment if, in connection with that loan, the licensee has previously charged at least one such fee.*

4. *If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:*

(a) *Except as otherwise provided by this chapter, charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:*

(1) *Any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or*

(2) *Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee;*

(b) *Except as otherwise provided in this section, accept any additional security or collateral from the customer to enter into the repayment plan;*

(c) *Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;*

(d) *Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in section 33.5 of this act;*

(e) *During the term of the repayment plan, attempt to collect the outstanding balance by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, unless the customer defaults on the repayment plan; or*

(f) *Attempt to collect an amount that is greater than the amount owed under the terms of the repayment plan.*

5. *If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:*

(a) *Prepare a written agreement establishing the repayment plan; and*

(b) *Give the customer a copy of the written agreement. The written agreement must:*

(1) *Be signed by the licensee and customer; and*

(2) *Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan.”.*

Amend sec. 42, page 14, between lines 35 and 36, by inserting:

“7. If the customer defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence any civil action or process of alternative dispute resolution or repossess a vehicle as otherwise authorized pursuant to this chapter.”.

Amend sec. 43, page 14, by deleting lines 36 through 41 and inserting:

“Sec. 43. 1. Except as otherwise provided in subsection 2, if a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or short-term loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond 60 days after the expiration of the initial loan period.

2. This section does not apply to a deferred deposit loan or short-term loan if the licensee:

(a) Makes the deferred deposit loan or short-term loan to a customer pursuant to a loan agreement which, under its original terms:

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

(3) Requires the loan to be paid in full in not less than 150 days; and

(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;

(b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;

(c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;

(d) Gives the customer the right to rescind the deferred deposit loan or short-term loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;

(e) Participates in good faith with a counseling agency that is:

(1) Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and

(2) A member of the National Foundation for Credit Counseling, or its successor organization; and

(f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.”.

Amend sec. 44, pages 14 and 15, by deleting lines 42 through 45 on page 14 and lines 1 through 12 on page 15, and inserting:

“Sec. 44. 1. Except as otherwise provided in section 36.5 of this act, if a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:

(a) The principal amount of the loan.

(b) The interest accrued before the expiration of the initial loan period at the annual percentage rate set forth in the disclosure statement required by

*the Truth in Lending Act and Regulation Z that is provided to the customer. If there is an extension relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 60 days after the expiration of the initial loan period, unless otherwise allowed by section 43 of this act.*

*(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to this chapter, whichever is later, at an annual percentage rate”.*

Amend sec. 44, page 15, lines 17 and 18, by deleting “12 weeks.” and inserting “90 days.”.

Amend sec. 44, page 15, line 24, by deleting “1,” and inserting: “1 and any other charges expressly permitted pursuant to sections 34, 36.5 and 42 of this act.”.

Amend sec. 48, page 17, line 21, by deleting “business,” and inserting: “business under the license.”.

Amend sec. 48, page 17, line 25, by deleting “means.” and inserting: “means, except that the applicant shall not propose to do business through any automated loan machine prohibited by section 29 of this act.”.

Amend sec. 48, page 17, between lines 40 and 41, by inserting:

*“4. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees.”.*

Amend sec. 49, page 17, by deleting lines 44 and 45 and inserting: “the State of Nevada in the amount of \$50,000 plus an additional \$5,000 for each branch location at which the applicant proposes to do business under the license. Thereafter, each licensee shall maintain the surety bond so that the amount of the surety bond is \$50,000 plus an additional \$5,000 for each branch location at which the licensee does business under the license. The surety bond required by this section is for the use and benefit of any customer receiving the services of the licensee at any location at which the licensee does business under the license.”.

Amend sec. 51, page 19, line 39, by deleting “means.” and inserting: “means, except that the applicant shall not conduct business in this State through any automated loan machine prohibited by section 29 of this act.”.

Amend sec. 52, page 19, line 43, by deleting “section” and inserting: “sections 53.5 and”.

Amend the bill as a whole by adding a new section designated sec. 53.5, following sec. 53, to read as follows:

“Sec. 53.5. 1. In addition to any other requirements set forth in this chapter, each applicant must submit proof satisfactory to the Commissioner that the applicant:

(a) Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.

(b) Has not made a false statement of material fact on the application for the license.

(c) Has not committed any of the acts specified in subsection 2.

(d) Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.

(e) Has not been convicted of, or entered a plea of *nolo contendere* to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(f) If the applicant is a natural person:

(1) Is at least 21 years of age; and

(2) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

2. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:

(a) Has committed or participated in any act which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the refusal or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for the license.”.

Amend sec. 54, page 20, line 21, by deleting “*that the*” and inserting: “*that*”:

(a) *The*”.

Amend sec. 54, page 20, by deleting line 25 and inserting: “*efficiently; and*”

(b) *The applicant has satisfied the requirements set forth in section 53.5 of this act.*”.

Amend sec. 54, page 20, line 41, by deleting “*means.*” and inserting: “*means, except that the Commissioner shall not issue any license that would authorize the licensee to operate through any automated loan machine prohibited by section 29 of this act.*”.

Amend sec. 54, page 20, line 44, by deleting “*shall.*” and inserting “*must.*”.

Amend sec. 57, page 21, line 41, after “Sec. 57.” by inserting “*1.*”.

Amend sec. 57, page 22, between lines 2 and 3, by inserting:

“2. A licensee must obtain the approval of the Commissioner before using or changing a business name.

3. *A licensee shall not:*

(a) *Use any business name which is identical or similar to a business name used by another licensee under this chapter or which may mislead or confuse the public.*

(b) *Use any printed forms which may mislead or confuse the public.”.*

Amend sec. 59, page 23, line 8, by deleting “means.” and inserting: “means, except that the licensee shall not operate any automated loan machine prohibited by section 29 of this act.”.

Amend sec. 60, page 23, line 12, after “separate” by inserting: “written or electronic”.

Amend sec. 64, page 25, line 1, after “Sec. 64.” by inserting “1.”.

Amend sec. 64, page 25, between lines 6 and 7, by inserting:

“2. *If, after auditing one or more branch locations of the licensee, the Commissioner or his authorized representatives conclude that the loans, disclosures, loan practices, computer processes, filing systems and records are identical at each branch location, the Commissioner may make an examination of only those branch locations he deems necessary.”.*

Amend the bill as a whole by adding a new section designated sec. 65.5, following sec. 65, to read as follows:

“Sec. 65.5. *In addition to any other lawful reasons, the Commissioner may suspend or revoke a license if the licensee has engaged in any act that would be grounds for denying a license pursuant this chapter.”.*

Amend the bill as a whole by adding a new section designated sec. 73.5, following sec. 73, to read as follows:

“Sec. 73.5. *In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.”.*

Amend sec. 74, page 28, by deleting lines 9 through 21 and inserting:

“Sec. 74. 1. *Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for any or all of the following relief:*

(a) *Actual and consequential damages;*

(b) *Punitive damages, which are subject to the provisions of NRS 42.005;*

(c) *Reasonable attorney’s fees and costs; and*

(d) *Any other legal or equitable relief that the court deems appropriate.*

2. *Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to \$1,000 for each violation if the person knowingly:*

(a) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service without a license, in violation of section 29 of this act;

(b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of section 31 of this act;

(c) Violates any provision of section 33 of this act;

(d) Accepts collateral or security for a deferred deposit loan, in violation of section 35 of this act, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;

(e) Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of section 36 of this act;

(f) Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of section 36 of this act;

(g) Violates any provision of section 44 of this act; or

(h) Violates any provision of section 45 of this act.

3. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error.”.

Amend the bill as a whole by adding a new section designated sec. 75.5, following sec. 75, to read as follows:

“Sec. 75.5. NRS 41.620 is hereby amended to read as follows:

41.620 1. ~~Any~~ Except as otherwise provided in section 45 of this act, any person who:

(a) Makes, utters, draws or delivers a check or draft for the payment of money drawn upon any financial institution or other person, when he has no account with the drawee of the instrument or has insufficient money, property or credit with the drawee to pay; or

(b) Uses a credit card or debit card to obtain money, goods, property, services or anything of value, when he knows or should have known the credit card or debit card is no longer valid,

and who fails to pay the amount in cash to the payee, issuer or other creditor within 30 days after a demand therefor in writing is mailed to him by



certified mail, is liable to the payee, issuer or other creditor for the amount of the check, draft or extension of credit, and damages equal to three times the amount of the check, draft or extension of credit, but not less than \$100 nor more than \$500.

2. As used in this section, unless the context otherwise requires:

- (a) “Credit card” has the meaning ascribed to it in NRS 205.630;
- (b) “Debit card” has the meaning ascribed to it in NRS 205.635; and
- (c) “Issuer” has the meaning ascribed to it in NRS 205.650.”.

Amend sec. 80, page 32, line 44, by deleting “act.” and inserting: “*act with regard to those services regulated pursuant to sections 2 to 74, inclusive, of this act.*”.

Amend sec. 83, page 33, line 39, by deleting “A” and inserting: “Except as otherwise provided in subsections 3 and 4, a”.

Amend sec. 83, page 34, between lines 6 and 7, by inserting:

“3. A person described in subsection 1 is not required to comply with the following provisions of sections 2 to 74, inclusive, of this act sooner than October 1, 2005, or the date of any extension granted by the Commissioner of Financial Institutions pursuant to subsection 4:

- (a) Any provision requiring the use of the Spanish language; and
- (b) Any provision requiring changes to or replacement of existing computer software or major modifications to existing business processes, as determined by the Commissioner.

4. If the person is unable to comply with any provision described in paragraph (a) or (b) of subsection 3 by October 1, 2005, the person may request an extension from the Commissioner. The Commissioner may grant such an extension, to a date not later than January 1, 2006, if the person establishes that compliance by October 1, 2005:

- (a) Is not economically feasible;
- (b) Is prevented by factors beyond the control of the person; or
- (c) Is prevented by any other factors that the Commissioner deems to be an appropriate justification for an extension.”.

Amend the title of the bill to read as follows:

“AN ACT relating to financial services; revising the standards and procedures for the licensing and regulation of check-cashing services, deferred deposit loan services, certain short-term loan services and title loan services; repealing provisions governing check-cashing services and deferred deposit loans to conform with the revised standards and procedures; revising provisions relating to certain unfair lending practices; providing remedies and administrative penalties; and providing other matters properly relating thereto.”.

Assemblywoman Buckley moved that the Assembly concur in the Senate amendment to Assembly Bill No. 384.

Remarks by Assemblywoman Buckley.

Assemblywoman Buckley requested that her remarks be entered in the Journal.

Thank you, Mr. Speaker. I want to read a couple comments, in the record, about the amendment, in hopes that I never have to do another payday loan bill again.

A new section 21.8 was written to clarify that financial terms have the meaning ascribed to them in federal law, the Truth in Lending Act (TILA) and Regulation Z. It is the intent that case law interpreting this federal law, and particularly Ninth Circuit case law, be relied on in construing such terms.

Section 31 was amended to clarify that the written loan agreement must disclose every type of fee or charge, regardless of the name given to it and regardless of whether TILA would require disclosure of same as part of the finance charge. The written loan agreement must also disclose the customer's opportunity to enter into a repayment plan on default.

In Section 34, it has now been made even more clear that if more than one loan is made to a customer at any one time the lender cannot raise the interest rate on a subsequent loan, and cannot charge any fee whatsoever on a subsequent loan. There is one exception to the no fee rule for lenders who meet some very narrow criteria in Section 43 of the bill.

In Section 35 it has now been made clearer that a licensee must disclose, in the written loan agreement, not only all that is required to be disclosed under the federal Truth in Lending Act (TILA), but also a description and amount of every fee charged. There are a few fees which under TILA need not be included and disclosed as part of the finance charge. This section is to make it very clear that even if TILA does not require that a fee be included in calculating a finance charge, that State law require disclosure of every fee or charge in the loan agreement.

In Section 38 the title lender's right to self-help repossession as it exists today under NRS Chapter 104 was restored. Basically, insofar as concerns a default on a title loan, the rights and obligations of the parties under Chapter 104 remain the same with the exception that this bill provides the lender may not seek any deficiency from the customer after a default, repossession, and sale of the vehicle. Even though subsection (3) was deleted from the First Reprint, providing for a return to the customer of any surplus proceeds from the sale of the vehicle, no adverse intent should be inferred there from, because existing law, under NRS Chapter 104 already provides that a surplus must be returned to the debtor.

Section 44, which is the most important portion of the bill, was rewritten to make it even more clear that after default, the lender may only collect what was legally owed at the time of the default, minus payments, plus interest at prime plus 10 percent. That's it. In other words, no late fees or any other type of fees no matter what innovative term is used to describe them. Treble damages for a bad check cannot be sought. Only one \$25 returned check fee can be sought. Interest cannot continue to accrue at the contract rate for an indefinite time because rollovers are limited to 60 days and because, upon default, the interest rate drops to prime plus 10 percent, and the prime plus 10 percent rate is not indefinite either; it is limited to 90 days. At that point, no interest can be charged. Even though, under existing law, Treble damages cannot be charged, this was added to make it even clearer that such a legal argument is specious and not allowed.

Lastly, Section 74, which provides for a private right of action for violations of the law, was written. Subparagraph (1) provides a private right of action for violations of certain sections of the act, and for recovery of actual and consequential damages, punitive damages, and attorney's fees and costs. Subparagraph (2) provides for the recovery of statutory damages for violations of certain sections of the act, in addition to any other remedy or penalty. Subparagraphs (3) and (4) provide an affirmative defense and was taken from the language provided in the Federal Truth and Lending act, at 15 U.S.C. § 1640 (c). It is the intent that case law interpreting that TILA section, and particularly Ninth Circuit case law interpreting that section, be relied on in construing these subparagraphs.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 493.

The following Senate amendment was read:

Amendment No. 893.

Amend sec. 2, page 1, line 7, by deleting "*of*" and inserting "*or*".

Amend sec. 9, page 4, by deleting lines 36 and 37 and inserting: “to 428.255, inclusive, *and section 7 of this act*, and”.

Amend sec. 14, page 6, by deleting lines 27 through 30 and inserting: “428.115 to 428.255, inclusive ~~[ ]~~, *and section 7 of this act*.”.

Assemblywoman Buckley moved that the Assembly concur in the Senate amendment to Assembly Bill No. 493.

Remarks by Assemblywoman Buckley.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 495.

The following Senate amendment was read:

Amendment No. 1057.

Amend section 1, page 2, line 2, by deleting “12,” and inserting “11,”.

Amend the bill as a whole by deleting sec. 12 and renumbering sections 13 through 15 as sections 12 through 14.

Amend sec. 13, page 6, line 22, by deleting “and” and inserting “[and]”.

Amend sec. 13, page 6, line 23, by deleting “5” and inserting “2.025”.

Amend sec. 13, page 6, by deleting lines 27 and 28, and inserting: “in NRS 439.625 ~~[to 439.690, inclusive.]~~ and 439.630;

*(c) Not more than 1.5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department to administer the provisions of NRS 439.635 to 439.690, inclusive; and*

*(d) Not more than 0.125 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department to administer the provisions of sections 2 to 11, inclusive, of this act.”.*

Amend sec. 15, page 10, line 25, by deleting: “*section 12 of this act*,”.

Amend the bill as a whole by adding a new section designated sec. 15, following sec. 15, to read as follows:

“Sec. 15. 1. The Department of Human Resources shall:

(a) Coordinate each state program that provides pharmaceutical or medical assistance to persons in this State with the Medicare Part D benefit so that each Medicare beneficiary who is eligible for or enrolled in such a state program maintains his present coverage for prescription drugs and pharmaceutical services to the extent allowed by federal law; and

(b) Coordinate each state program that provides pharmaceutical or medical assistance to persons in this State with the Medicare Part D benefit in a manner that:

(1) Maximizes coverage for prescription drugs and pharmaceutical services for persons in this State;

(2) Minimizes disruptions in the enrollment of persons in this State in state and federal programs that provide coverage for prescription drugs and pharmaceutical services;

(3) Minimizes disruptions in the eligibility of persons in this State for state and federal programs that provide coverage for prescription drugs and pharmaceutical services;

(4) Minimizes out-of-pocket expenses for prescription drugs and pharmaceutical services for Medicare beneficiaries in this State; and

(5) Maximizes federal funding for coverage of prescription drugs and pharmaceutical services for persons in this State.

2. The Department of Human Resources shall submit a plan for coordinating the state programs with the Medicare Part D benefit as required by subsection 1 to the Interim Finance Committee for approval before the Department coordinates those programs and benefits.

3. The Department of Human Resources may adopt such regulations as may be required to carry out the provisions of this section.”

Amend sec. 17, page 10, line 41, before “This” by inserting “1.”

Amend sec. 17, page 10, after line 41, by inserting:

“2. Section 15 of this act expires by limitation on July 1, 2007.”

Amend the title of the bill to read as follows:

“AN ACT relating to public health; establishing a program for the provision of prescription drugs and pharmaceutical services for certain persons with disabilities; changing the portion of the money in the Fund for a Healthy Nevada that may be used to pay certain administrative costs incurred by the Department of Human Resources; making various changes concerning the allocation of the money in the Fund for a Healthy Nevada; requiring the Department to coordinate the provision of prescription drugs and pharmaceutical services by state programs that provide pharmaceutical or medical assistance to certain Medicare pharmaceutical benefits; repealing the requirement that the Department apply to the Federal Government to establish programs to extend coverage for prescription drugs and other related services for certain persons; and providing other matters properly relating thereto.”

Assemblywoman Buckley moved that the Assembly concur in the Senate amendment to Assembly Bill No. 495.

Remarks by Assemblywoman Buckley.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 540.

The following Senate amendment was read:

Amendment No. 1091.

Amend section 1, page 1, line 10, after “crane;” by inserting “and”.

Amend section 1, pages 1 and 2, by deleting lines 13 through 17 on page 1 and lines 1 through 16 on page 2, and inserting: “they continue to be in use .

~~[- and~~

~~5.— Establishment]~~

2. *Except as otherwise provided in subsection 3:*

(a) *The Division shall adopt regulations requiring the establishment and implementation of programs for the ~~training and~~ certification of ~~crane operators.~~ all persons who operate:*

(1) *Tower cranes; or*

(2) *Mobile cranes having a usable boom length of 25 feet or greater or a maximum machine rated capacity of 15,000 pounds or greater.*

(b) *A person shall not operate a tower crane or a mobile crane described in subparagraph (2) of paragraph (a) unless the person holds certification as a crane operator issued pursuant to this subsection for the type of crane being operated.*

(c) *An applicant for certification as a crane operator must hold a certificate which:*

(1) *Is issued by an organization whose program of certification for crane operators:*

(I) *Is accredited by the National Commission for Certifying Agencies or an equivalent accrediting body approved by the Division; or*

(II) *Meets other criteria established by the Division; and*

(2) *Certifies that the person has met the standards to be a crane operator established by the American Society of Mechanical Engineers in its standards B30.3, B30.4 or B30.5 as adopted by regulation of the Division.*

3. *The provisions of subsection 2 do not apply to a person who:*

(a) *Is an employee of a utility while the person is engaged in work for or at the direction of the utility;*

(b) *Operates an electric or utility line truck that is regulated pursuant to 29 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart V; or*

(c) *Operates an aerial or lifting device, whether or not self-propelled, that is designed and manufactured with the specific purpose of lifting one or more persons in a bucket or basket or on a ladder or platform and holding those persons in the lifted position while they perform tasks. Such devices include, without limitation:*

(1) *A bucket truck or lift;*

(2) *An aerial platform;*

(3) *A platform lift; or*

(4) *A scissors lift.*

4. *As used in this section, “utility” means any public or private utility, whether or not the utility is subject to regulation by the Public Utilities Commission of Nevada, that provides, at wholesale or retail:*

(a) *Electric service;*

(b) *Gas service;*

(c) *Water or sewer service;*

(d) *Telecommunication service, including, without limitation, local exchange service, long distance service and personal wireless service; or*

(e) *Television service, including, without limitation, community antenna television service.”.*

Amend sec. 2, page 2, line 19, by deleting “date.” and inserting: “date and are superseded by the regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to subsection 2 of NRS 618.880, as amended by this act.”.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 540.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 364.

The following Senate amendment was read:

Amendment No. 868.

Amend section 1, page 2, line 5, by deleting “5” and inserting “6”.

Amend sec. 2, page 2, line 21, by deleting “5” and inserting “6”.

Amend the bill as a whole by renumbering sections 3 through 11 as sections 4 through 12 and adding a new section designated sec. 3, following sec. 2, to read as follows:

“Sec. 3. NRS 616B.630 is hereby amended to read as follows:

616B.630 1. ~~[An insurer of a contractor]~~ *The Administrator shall, not later than 10 days after receiving notice from the advisory organization that a contractor’s coverage has lapsed, notify the State Contractors’ Board [within 10 days after the contractor’s coverage has lapsed.] of that fact.*

2. The Commissioner shall notify the Administrator and the State Contractors’ Board within 10 days after a contractor’s certificate of qualification as a self-insured employer is cancelled or withdrawn or he is no longer a member of an association of self-insured public or private employers.”.

Amend sec. 3, page 2, line 28, by deleting: “4, 5 and 6” and inserting: “5, 6 and 7”.

Amend sec. 4, page 2, line 29, after “4.” by inserting “1.”.

Amend sec. 4, page 2, line 31, by deleting “a quarterly” and inserting “an annual”.

Amend sec. 4, page 2, line 33, by deleting “1.” and inserting “(a)”.

Amend sec. 4, page 2, line 36, by deleting “2.” and inserting “(b)”.

Amend sec. 4, page 2, line 38, by deleting “3.” and inserting “(c)”.

Amend sec. 4, page 2, line 40, by deleting “4.” and inserting “(d)”.

Amend sec. 4, page 2, line 43, by deleting “(a)” and inserting “(1)”.

Amend sec. 4, page 2, line 44, by deleting “(b)” and inserting “(2)”.

Amend sec. 4, page 2, line 45, by deleting “(c)” and inserting “(3)”.

Amend sec. 4, page 2, after line 45, by inserting:

“2. *An injured employee may request in writing from the insurer an accounting described in subsection 1. The accounting must cover the period from the date on which the most recent annual accounting was provided to the injured employee pursuant to subsection 1 to the date on which the*

written request is made. The insurer shall provide the accounting to the injured employee not later than 30 days after receiving the written request for the accounting from the injured employee. Any accounting provided by an insurer to an injured employee pursuant to this subsection must be provided in addition to, and not in lieu of, the annual accountings required pursuant to subsection 1.”

Amend sec. 5, page 3, line 1, after “5.” by inserting “1.”

Amend sec. 5, page 3, by deleting line 3 and inserting:

“(a) The claim was closed and the claimant was not scheduled for an”.

Amend sec. 5, page 3, line 5, by deleting “2.” and inserting “(b)”.

Amend sec. 5, page 3, line 7, by deleting: “eligible to receive compensation” and inserting: “qualified to be scheduled for an evaluation”.

Amend sec. 5, page 3, line 9, by deleting “3.” and inserting “(c)”.

Amend sec. 5, page 3, between lines 10 and 11, by inserting:

“2. The demonstration required pursuant to paragraph (b) of subsection 1 must be made with documentation that existed at the time that the case was closed.

3. Notwithstanding any specific statutory provision to the contrary, the consideration of whether a claimant is entitled to payment of compensation for a permanent partial disability for a claim that is reopened pursuant to this section must be made in accordance with the provisions of the applicable statutory and regulatory provisions that existed on the date on which the claim was closed, including, without limitation, using the edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that was applicable on the date the claim was closed.”

Amend sec. 6, page 3, by deleting lines 11 through 16 and inserting:

“Sec. 7. 1. If the employer of a vocational rehabilitation counselor is also the entity administering an injured employee’s case, the vocational rehabilitation counselor shall not provide services as a vocational rehabilitation counselor to the injured employee, including, without limitation, completing a written assessment pursuant to NRS 616C.550, unless, before the commencement of such services, the injured employee is provided with a written disclosure that:

(a) Discloses the relationship between the vocational rehabilitation counselor and the entity administering the injured employee’s case; and

(b) Informs the injured employee of his right to be assigned an alternate vocational rehabilitation counselor who is not affiliated with the entity administering the injured employee’s case.

2. After receiving the written disclosure required pursuant to subsection 1, the injured employee has a right to be assigned an alternate vocational rehabilitation counselor who is not affiliated with the entity administering the injured employee’s case. To be assigned an alternate vocational rehabilitation counselor, the injured employee must submit a written request to the entity administering the injured employee’s case before the

*commencement of vocational rehabilitation services. Not later than 10 days after receiving such a request, the entity administering the injured employee's case shall assign the injured employee an alternate vocational rehabilitation counselor who is not affiliated with the entity administering the injured employee's case."*

Amend sec. 7, page 3, line 18, by deleting "5" and inserting "6".

Amend sec. 8, page 5, line 45, by deleting "5" and inserting "6".

Amend sec. 9, page 7, line 14, by deleting "6" and inserting "7".

Amend sec. 11, page 10, line 32, by deleting "5" and inserting "6".

Amend the title of the bill to read as follows:

"AN ACT relating to industrial insurance; revising provisions relating to the notices required when a contractor's coverage lapses; requiring an insurer that makes payments of compensation to an injured employee for a permanent total disability to provide certain accountings to the injured employee; requiring an insurer to reopen a claim to consider the payment of compensation for a permanent partial disability under certain circumstances; authorizing an insurer or an injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee under certain circumstances; prohibiting a vocational rehabilitation counselor who is employed by the entity administering an injured employee's case from providing services to the injured employee under certain circumstances; providing an injured employee with the right to be assigned an alternate vocational rehabilitation counselor who is not affiliated with the entity administering the injured employee's case; and providing other matters properly relating thereto."

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 364.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 340.

The following Senate amendment was read:

Amendment No. 927.

Amend the bill as a whole by deleting sections 1 through 7 and adding new sections designated sections 1 through 18, following the enacting clause, to read as follows:

"Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this act have the meanings ascribed to them in those sections.*



Sec. 3. “Customer” means a person who, in connection with the preparation or filing of a tax return, applies for a refund anticipation loan or receives the proceeds of a refund anticipation loan.

Sec. 4. 1. “Facilitator of a refund anticipation loan” or “facilitator” means a person who:

(a) Receives or accepts for delivery an application for a refund anticipation loan;

(b) Delivers a check in payment of the proceeds of a refund anticipation loan; or

(c) In any other manner, acts to allow or facilitates the offering or making of a refund anticipation loan.

2. The term includes, without limitation, a tax preparer who engages in any of the acts described in subsection 1.

3. The term does not include:

(a) A bank, thrift, savings association, industrial bank or credit union operating under the laws of the United States or this State;

(b) An affiliate, other than a tax preparer, that is a servicer for such an entity; or

(c) Any person who acts solely as an intermediary and does not deal with a customer in the making of a refund anticipation loan.

Sec. 5. “Internal Revenue Service” means the Internal Revenue Service of the United States Department of the Treasury.

Sec. 6. “Lender” means a person who offers to extend or extends credit to a customer in the form of a refund anticipation loan.

Sec. 7. 1. “Refund anticipation loan” means a loan offered or made to a customer by a lender or through a facilitator based on the customer’s anticipated federal income tax refund.

2. The term includes, without limitation, a refund anticipation loan offered or made using electronic commerce.

Sec. 8. 1. “Refund anticipation loan fee” means any fee, charge or other consideration imposed by a lender or a facilitator for a refund anticipation loan.

2. The term does not include any fee, charge or other consideration usually imposed by a facilitator in the ordinary course of business for nonloan services, such as fees for preparing tax returns and fees for the electronic filing of tax returns.

Sec. 9. 1. “Refund anticipation loan fee schedule” means a listing or table of refund anticipation loan fees charged by a lender or a facilitator for three or more representative refund anticipation loan amounts.

2. A refund anticipation loan fee schedule must:

(a) List separately each fee or charge imposed and a total of all fees and charges imposed which are related to the making of refund anticipation loans; and

(b) Include, for each representative loan amount, the estimated annual percentage rate calculated under the guidelines established by the Truth in Lending Act and Regulation Z.

Sec. 10. “Regulation Z” means the federal regulations, as amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in Lending Act and commonly known as Regulation Z.

Sec. 11. “Tax preparer” means a person who engages in the business of preparing or filing tax returns for any fee, charge or other consideration.

Sec. 12. “Tax return” means a federal income tax return.

Sec. 13. “Truth in Lending Act” means the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.

Sec. 14. A facilitator of a refund anticipation loan shall post the refund anticipation loan fee schedule used by the facilitator in a conspicuous place in every location at which the facilitator conducts business.

Sec. 15. 1. If a facilitator of a refund anticipation loan offers a customer an opportunity to apply for a refund anticipation loan, the facilitator shall provide to the customer, before the customer completes the application process, the following disclosures:

(a) The refund anticipation loan fee schedule used by the facilitator; and

(b) A written statement or, if the transaction is conducted using electronic commerce, an electronic statement, in at least 10-point type, containing the following information:

(1) A disclosure that the refund anticipation loan is a loan which creates a legally enforceable debt and that the loan is not the customer’s actual tax refund;

(2) A disclosure that the customer may file a tax return electronically without applying for the refund anticipation loan;

(3) A disclosure of the average times, according to the Internal Revenue Service, within which a person who does not obtain a refund anticipation loan can expect to receive a tax refund if the person:

(I) Files a tax return electronically and the person’s tax refund is directly deposited to the person’s account or mailed to the person; or

(II) Mails a tax return to the Internal Revenue Service and the person’s tax refund is directly deposited to the person’s account or mailed to the person;

(4) A disclosure that the Internal Revenue Service does not guarantee that a person will be paid the full amount of an anticipated tax refund and does not guarantee that an anticipated tax refund will be deposited into a person’s account or mailed to a person on a specific date;

(5) A disclosure that the customer is responsible for repayment of the refund anticipation loan and related fees and charges if the anticipated tax refund is not paid or paid in full;

(6) A disclosure of the estimated time within which the proceeds of the refund anticipation loan will be paid to the customer if the loan is approved; and

(7) *A disclosure of the fee or charge that will be imposed, if any, if the refund anticipation loan is not approved.*

2. *In addition to the disclosures required pursuant to subsection 1, the facilitator shall provide to the customer, before the loan transaction is completed, the following additional disclosures:*

(a) *The estimated total fees and charges for obtaining the refund anticipation loan; and*

(b) *The estimated annual percentage rate for the refund anticipation loan calculated under the guidelines established by the Truth in Lending Act and Regulation Z.*

Sec. 16. *A facilitator of a refund anticipation loan shall not:*

1. *Misrepresent a material factor or condition of a refund anticipation loan;*

2. *Fail to process the application for a refund anticipation loan promptly after the customer applies for the loan;*

3. *Engage in any dishonest, fraudulent, unfair, unconscionable or unethical practice or conduct in connection with a refund anticipation loan;*

4. *Arrange for a lender to take a security interest in any property of the customer, other than the proceeds of the customer's tax refund and the account into which that tax refund is deposited, to secure payment of the loan; or*

5. *Offer a refund anticipation loan to a customer in an amount that, when added to the refund anticipation loan fees and any other fees or charges related to the loan or the preparation of the tax return, exceeds the amount of the customer's anticipated tax refund.*

Sec. 17. *Any person who knowingly and willfully violates any provision of this chapter is guilty of a misdemeanor and shall be punished by a fine of not more than \$500 for each violation.*

Sec. 18. 1. *The remedies, penalties, duties and prohibitions set forth in this chapter are not exclusive and are in addition to any other remedies, penalties, duties and prohibitions provided by law.*

2. *Any violation of this chapter constitutes a deceptive trade practice for the purposes of the civil and administrative remedies and penalties set forth in NRS 598.0903 to 598.0999, inclusive."*

Amend the title of the bill to read as follows:

"AN ACT relating to financial transactions; establishing certain requirements and prohibitions relating to refund anticipation loans; providing remedies and penalties; and providing other matters properly relating thereto."

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 340.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 343.

The following Senate amendment was read:

Amendment No. 673.

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

*“Sec. 2. If a repair to a manufactured home may affect life, health or safety and the repair may be performed legally only by a person who is qualified by licensure or certification to perform such a repair:*

*1. A person shall not perform the repair unless he has such qualifications; and*

*2. A tenant or a landlord, or his agent or employee, shall not allow 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.”.*

Amend sec. 4, page 2, by deleting lines 24 through 26 and inserting:

*“Sec. 4. If a landlord bills a tenant individually for utility charges derived from a utility bill for the manufactured home park which represents utility usage for multiple tenants, the landlord shall post in a”.*

Amend sec. 4, page 2, by deleting lines 29 and 30 and inserting: *“common area in the manufactured home park, or provide to each tenant who is individually billed for the utility charges:*

*1. A copy of the utility bill for the park; and*

*2. A statement indicating the portion of the utility bill”.*

Amend the bill as a whole by deleting sections 5 and 6 and adding new sections designated sections 5 and 6, following sec. 4, to read as follows:

*“Sec. 5. If a person owns a manufactured home on a manufactured home lot and the person, either directly or through an agent, leases the manufactured home to another person, the rental agreement or lease must include, in addition to any other information required by law, the following information:*

*1. The name and address of the person who owns the manufactured home;*

*2. The year the manufactured home was manufactured;*

*3. The year the manufactured home was moved into the manufactured home park;*

*4. The year the person acquired the manufactured home; and*

*5. The date of each inspection of the manufactured home.*

*Sec. 6. 1. Except as otherwise provided in this section, all money collected from administrative fines imposed pursuant to this chapter must be deposited in the State General Fund.*

*2. The money collected from an administrative fine may be deposited with the State Treasurer for credit to the Fund for Manufactured Housing created pursuant to NRS 489.491 if:*

*(a) The person pays the administrative fine without exercising his right to a hearing to contest the administrative fine; or*

(b) *The administrative fine is imposed in a hearing conducted by a hearing officer or panel appointed by the Administrator.*

3. *The Administrator may appoint one or more hearing officers or panels and may delegate to those hearing officers or panels the power of the Administrator to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.*

4. *If money collected from an administrative fine is deposited in the State General Fund, the Administrator may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both."*

Amend the bill as a whole by deleting sections 7 through 9 and adding:  
"Secs. 7-9. (Deleted by amendment.)"

Amend the bill a whole by deleting sec. 9.3 and adding a new section designated sec. 9.3, following section 9.1, to read as follows:

"Sec. 9.3. NRS 118B.095 is hereby amended to read as follows:

118B.095 1. The landlord shall authorize each manager and assistant manager to make repairs himself or enter into a contract with a third party for the repairs. *If the repairs are subject to the provisions of section 2 of this act, the repairs must be made in compliance with the provisions of that section.*

2. Except as otherwise provided in subsection 3, the manager shall contract with a third party to provide emergency repairs for the tenants on the occasions when the manager and assistant manager are not physically present in the park. The manager shall notify each tenant of the telephone number of the third party who will make the repairs, and direct the tenants to call him when an emergency repair is needed and the manager and assistant manager are not physically present in the park. The telephone number so provided must be that of the third party directly. The provision of the telephone number of an answering service does not fulfill this requirement. If the manager or assistant manager is present in the park, any request for repairs must be made to him and not the third party.

3. The provisions of subsection 2 do not apply to a manufactured home park that is owned by:

- (a) A nonprofit organization; or
- (b) A housing authority,

if the nonprofit organization or housing authority has established an alternative method to provide emergency repairs for tenants in a timely manner.

4. As used in this section, "repairs" means only repairs to the property of the owner of the manufactured home park."

Amend sec. 9.5, page 5, by deleting lines 32 and 33 and inserting: "~~He~~, 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"

Amend sec. 9.7, page 6, by deleting lines 28 and 29 and inserting: “body . ~~and.~~ *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:*”

Amend sec. 9.7, page 7, by deleting line 14 and inserting:

“~~2.~~ 3. Notice sent pursuant to paragraph (a) of subsection ~~1~~ 2 or an”.

Amend sec. 9.7, page 7, line 16, by deleting “1” and inserting “~~1~~ 2”.

Amend sec. 9.7, page 7, line 18, by deleting “3.” and inserting “~~3.~~ 4.”.

Amend sec. 9.7, page 7, line 22, by deleting “4.” and inserting “~~4.~~ 5.”.

Amend sec. 9.9, page 7, by deleting lines 28 through 30 and inserting:

“commission or governing body . ~~and.~~ *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:*”

Amend sec. 9.9, page 7, line 34, by deleting: “2 or 3,” and inserting: “~~2 or 3.~~ 3 or 4,”.

Amend sec. 9.9, page 7, line 42, by deleting “2.” and inserting “~~2.~~ 3.”.

Amend sec. 9.9, page 8, line 10, by deleting “3.” and inserting “~~3.~~ 4.”.

Amend sec. 9.9, page 8, line 18, by deleting “4.” and inserting “~~4.~~ 5.”.

Amend sec. 9.9, page 8, line 21, by deleting “5.” and inserting “~~5.~~ 6.”.

Amend sec. 9.9, page 8, line 29, by deleting “6.” and inserting “~~6.~~ 7.”.

Amend sec. 11, page 9, line 22, by deleting: “12 to 13.7,” and inserting: “11.3 to 13.8,”.

Amend the bill as a whole by adding new sections designated sections 11.3 through 11.7, following sec. 11, to read as follows:

“Sec. 11.3. 1. *The Division shall:*

(a) *Provide to each owner of a mobile home park a checklist of the provisions of this chapter which must include, without limitation:*

(1) *Contact information regarding the Division; and*

(2) *A simple description of each provision of this chapter; and*

(b) *Update the checklist each time a provision of this chapter is added, amended or repealed.*

2. *Each owner of a mobile home park shall provide a copy of the checklist to each manager and assistant manager of the mobile home park.*

3. *In preparing the checklist pursuant to this section, the Division may consult with any public or private entities, including, without limitation, the representatives of owners and tenants of mobile home parks.*

4. As used in this section, “manager” has the meaning ascribed to it in NRS 118B.0145.

Sec. 11.5. A city or county shall not issue a business license for a mobile home park unless the person applying for the business license provides written proof from the agency for enforcement that the mobile home park is in compliance with all applicable fire, health and safety codes and regulations and the provisions of this chapter and any regulations adopted pursuant thereto.

Sec. 11.7. 1. If a person applies for the initial business license for a mobile home park or acquires ownership of a mobile home park, the person shall, within 3 business days, notify the local fire department within whose jurisdiction the mobile home park is located.

2. Upon receiving notice pursuant to subsection 1, the local fire department shall inspect the mobile home park for fire hazards and compliance with applicable fire codes and regulations and shall notify the Administrator of any violations.”.

Amend sec. 12, page 9, line 26, before “health” by inserting “applicable”.

Amend sec. 12, page 9, line 31, by deleting “that 3” and inserting: “than 3 business”.

Amend sec. 12, page 9, line 34, before “days” by inserting “business”.

Amend sec. 13, page 9, lines 36 and 37, by deleting: “State Health Officer or the”.

Amend sec. 13, page 9, line 41, by deleting: “State Health Officer or the”.

Amend sec. 13, page 10, by deleting line 1 and inserting: “inspection, the city, county or district board of health shall”.

Amend sec. 13, page 10, by deleting line 5 and inserting:

“4. The governing body of a city or county or the city, county or district board of health may”.

Amend sec. 13.3, page 10, by deleting lines 10 through 14 and inserting: “exists in the park chronic conditions that render mobile homes in the park substandard pursuant to NRS 461A.120.”.

Amend sec. 13.7, page 10, by deleting lines 16 and 17 and inserting: “a mobile home park is in violation of any applicable health or safety code or regulation or is in violation of any provision of this chapter or any regulation adopted pursuant thereto, the local agency for enforcement shall notify”.

Amend the bill as a whole by adding new sections designated sections 13.8 and 13.9, following sec. 13.7, to read as follows:

“Sec. 13.8. 1. Except as otherwise provided in this section, all money collected from administrative fines imposed pursuant to this chapter must be deposited in the State General Fund.

2. The money collected from an administrative fine may be deposited with the State Treasurer for credit to the Fund for Manufactured Housing created pursuant to NRS 489.491 if:

(a) The person pays the administrative fine without exercising his right to a hearing to contest the administrative fine; or

(b) *The administrative fine is imposed in a hearing conducted by a hearing officer or panel appointed by the Administrator.*

3. *The Administrator may appoint one or more hearing officers or panels and may delegate to those hearing officers or panels the power of the Administrator to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.*

4. *If money collected from an administrative fine is deposited in the State General Fund, the Administrator may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.*

Sec. 13.9. NRS 461A.220 is hereby amended to read as follows:

461A.220 1. A person shall not:

(a) Construct a mobile home park; or

(b) Construct or alter lots, roads or other facilities in a mobile home park, unless he has obtained a construction permit from the agency for enforcement.

2. Each agency for enforcement may charge and collect reasonable fees, specified by ordinance or regulation, for its services.

3. Except as otherwise provided in NRS 489.265 ~~and~~ *and section 13.8 of this act*, money collected by the Division pursuant to this chapter must be deposited in the State Treasury for credit to the Fund for Manufactured Housing ~~created pursuant to NRS 489.491~~. Expenses of enforcement of this chapter must be paid from the Fund.”.

Amend sec. 14, page 10, by deleting lines 40 through 42 and inserting: *“each day of a continuing violation.”*.

Amend sec. 15, page 11, line 10, by deleting *“or”* and inserting *“for”*.

Amend the title of the bill to read as follows:

*“AN ACT relating to manufactured housing; enacting provisions relating to repairs and connection of utilities in manufactured home parks; requiring landlords of manufactured home parks to disclose to tenants certain information regarding utility charges; requiring certain information to be included in rental agreements and leases for certain manufactured homes; revising provisions governing the administrative powers and duties of the Manufactured Housing Division of the Department of Business and Industry; revising provisions relating to the closure of manufactured home parks for health and safety reasons; requiring the Division to provide certain information to owners of mobile home parks; requiring certain inspections of mobile home parks; prohibiting the operation of mobile home parks without certain approvals and permits; revising provisions governing the condemnation of mobile home parks; authorizing the imposition of certain administrative fines; requiring all manufactured homes, mobile homes, commercial coaches and travel trailers sold or used for residential purposes in this State to be equipped with a smoke detector; providing penalties; and providing other matters properly relating thereto.”*



Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 343.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 415.

The following Senate amendment was read:

Amendment No. 809.

Amend section 1, pages 2 and 3, by deleting line 45 on page 2 and line 1 on page 3, and inserting: "*Legislator shall notify the Legislative Counsel of that fact. Upon receipt of such notification, the Legislative Counsel shall list the name of that Legislator or the name of the committee as the*".

Amend section 1, page 3, line 6, by deleting "*original*".

Amend the title of the bill, by deleting the fourth and fifth lines and inserting: "Legislative Counsel; authorizing the replacement of a primary requester on the list of requests prepared by".

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 415.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 5:10 p.m.

#### ASSEMBLY IN SESSION

At 5:17 p.m.

Mr. Speaker presiding.

Quorum present.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 460.

Bill read third time.

The following amendment was proposed by the Assemblywoman Leslie:

Amendment No. 1133.

Amend sec. 4, page 2, lines 13 and 14, by deleting: "Nevada Public Education Foundation of Washoe County" and inserting: "Washoe County School District Educational Foundation, Inc.,".

Amend sec. 5, page 2, line 17, by deleting: "Nevada Public Education Foundation" and inserting: "Washoe County School District Educational Foundation, Inc.,".

Amend sec. 5, page 2, lines 21 and 22, by deleting: “Nevada Public Education Foundation” and inserting: “Washoe County School District Educational Foundation, Inc.,”.

Amend sec. 5, page 2, line 26, by deleting: “Nevada Public Education Foundation,” and inserting: “Washoe County School District Educational Foundation, Inc.,”.

Amend the title of the bill, second and third lines, by deleting: “Nevada Public Education Foundation of Washoe County” and inserting: “Washoe County School District Educational Foundation, Inc.,”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes appropriations to Clark County Public Education Foundation and Washoe County School District Educational Foundation, Inc., for new programs and expansion of outreach efforts. (BDR S-826)”.

Assemblywoman Leslie moved the adoption of the amendment.

Remarks by Assemblywoman Leslie.

Amendment adopted.

Bill ordered reprinted, re-engrossed, and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bills Nos. 47, 562; Senate Bill No. 512 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

#### UNFINISHED BUSINESS

#### RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Parnell moved that the Assembly do not recede from its action on Senate Bill No. 367, that a conference be requested, and that Mr. Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Parnell.

Motion carried.

#### APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Horne, Manendo, and Mabey as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 367.

#### REMARKS FROM THE FLOOR

Assemblywoman Giunchigliani requested that her remarks be entered in the Journal.

Thank you, Mr. Speaker. I just wanted to note, for the record, that when we concurred on Assembly Bill 280, the language was pursuant to the regent’s policy. I wanted to make it clear it was testimony we received at a hearing that the regents did have already in their policy. So the intent was not to change that but to make sure it goes into their handbook. Thank you.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 83, 93, 101, 125, 137, 158, 162, 202, 248, 299, 426, 440, 471, 475, 477, 483, 509, 510, 519, 532, 533, 542; Assembly Joint Resolution No. 11 of the 72nd Session; Senate Bills Nos. 18, 22, 44, 46, 52, 67, 82, 87, 110, 122, 152, 170, 175, 194, 218, 219, 251, 263, 269, 276, 280, 281, 307, 321, 326, 346, 353, 368, 381, 384, 389, 398, 401, 410, 438, and 481.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Hettrick, the privilege of the floor of the Assembly Chamber for this day was extended to Mrs. Morgan, Mrs. Kashuba, Mrs. Ives, Miss Rosingus, Mrs. Ellison, Cindy Aguilar, Tayler Christopher, Jacob Dancer-Davis, Jessica Drinkwine, David Francis, Owen Galvin, Trevor Hemsath, Brittney Kashuba, Julian Lomas, Taylor Lombert, Mas McDuffee, Morgan McDuffee, Colton McKone, John Ortega, Jesseca Pacheco, Esai Rodriguez, Mariela Rubio, Francisco Sanchez, Noah Thew, Cory Hayes, Alfonso Aguilar, Jacob Braga, Kelsey Cryderman, Carin Cubillo, Katie Ellison, Gavin Gaudreault, Alex Gonzales Ramirez, Isaac Keway, Phoebe Mark, Justin Newcomb, Yesenia Pacheco, Ashwath Ravichandran, Nicole Rios, Mauricio Rodriguez, Jesse Snooks, Paige Soares, Walker Spurgeon, Leah Walters, Ivan Zaragoza, Jordan Steel, Alysas James.

On request of Assemblyman Sherer, the privilege of the floor of the Assembly Chamber for this day was extended to Raymond J. Gillum.

Assemblywoman Buckley moved that the Assembly adjourn until Thursday, June 2, 2005, at 9:30 a.m.

Motion carried.

Assembly adjourned at 5:21 p.m.

Approved:

RICHARD D. PERKINS  
*Speaker of the Assembly*

Attest: NANCY S. TRIBBLE  
*Chief Clerk of the Assembly*

L