THE SEVENTY-FOURTH DAY

CARSON CITY (Thursday), April 19, 2007

Senate called to order at 12:20 p.m.

President pro Tempore Amodei presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Spring is trying to spring. Grass is greening. Some flowers are flowering. Baseball season has started.

Help us to peacefully make progress so we can make a positive difference and return to our homes and loved ones and the things we enjoy. I pray in the Name of the One who brings the greatest joy.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 198, 352, 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

Mr. President pro Tempore:

Your Committee on Human Resources and Education, to which were referred Senate Bills Nos. 314, 328, 355, 357, 399, 400, 404, 533, 536, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Mr. President pro Tempore:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA K. CEGAVSKE, *Chair*

Mr. President pro Tempore:

Your Committee on Natural Resources, to which was referred Senate Bill No. 105, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEAN A. RHOADS, *Chair*

Mr. President pro Tempore:

Your Committee on Taxation, to which were referred Senate Bills Nos. 152, 257, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MIKE MCGINNESS, *Chair*

Mr. President pro Tempore:

Your Committee on Transportation and Homeland Security, to which were referred Assembly Bills Nos. 5, 264, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation and Homeland Security, to which were referred Senate Bills Nos. 128, 173, 319, 392, 450, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 18, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 470.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 6, 49, 57, 63, 77, 91, 94, 103, 118, 120, 194, 218, 233, 253, 258, 261, 296, 313, 344, 385, 386, 391, 406, 418, 463, 489, 498, 516, 519, 520, 533, 558, 559.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that through April 24, 2007, all bills and joint resolutions reported out of committee be immediately placed on the appropriate reading files, time premitting.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 312 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 141 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 146 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

Senator Titus moved that Senate Bill No. 415 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Titus.

Motion carried.

Senator Rhoads moved that Senate Bill No. 405 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Rhoads.
Motion carried.

Senator Nolan moved that Senate Bill No. 61 be taken from the General File and placed on the Secretary's desk.
Remarks by Senator Nolan.
Motion carried.

Senator Nolan moved that Senate Bill No. 106 be taken from the General File and placed on Secretary's desk.
Remarks by Senator Nolan.
Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 6.
Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Human Resources and Education.
Remarks by Senator Nolan.
Motion carried.

Assembly Bill No. 49.
Senator Nolan moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 57.
Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.
Motion carried.

Assembly Bill No. 63.
Senator Nolan moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 77.
Senator Nolan moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 91.
Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.
Motion carried.

Assembly Bill No. 94.
Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Judiciary.

Remarks by Senator Nolan.
Motion carried.

Assembly Bill No. 103.
Senator Nolan moved that the bill be referred to the Committee on Commerce and Labor.
Motion carried.

Assembly Bill No. 118.
Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.
Motion carried.

Assembly Bill No. 120.
Senator Nolan moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 194.
Senator Nolan moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 218.
Senator Nolan moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 233.
Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.
Motion carried.

Assembly Bill No. 253.
Senator Nolan moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 258.
Senator Nolan moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 261.
Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.
Motion carried.

Assembly Bill No. 296.

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

Motion carried.

Assembly Bill No. 313.

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

Motion carried.

Assembly Bill No. 344.

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

Motion carried.

Assembly Bill No. 385.

Senator Nolan moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 386.

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

Motion carried.

Assembly Bill No. 391.

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

Motion carried.

Assembly Bill No. 406.

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

Remarks by Senator Nolan.

Motion carried.

Assembly Bill No. 418.

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

Motion carried.

Assembly Bill No. 463.

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

Motion carried.

Assembly Bill No. 470.

Senator Nolan moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 489.

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

Motion carried.

Assembly Bill No. 498.

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

Motion carried.

Assembly Bill No. 516.

Senator Nolan moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 519.

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

Motion carried.

Assembly Bill No. 520.

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

Motion carried.

Assembly Bill No. 533.

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

Motion carried.

Assembly Bill No. 558.

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

Motion carried.

Assembly Bill No. 559.

Senator Nolan moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 3.

Bill read second time.

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

Amendment No. 10.

"SUMMARY—Revises various provisions relating to the death benefits payable to surviving spouses of certain police officers and firefighters. (BDR 53-244)"

"AN ACT relating to public employees; allowing the surviving spouse of a deceased police officer or firefighter *who was killed in the line of duty* to continue to receive death benefits under industrial insurance after the surviving spouse remarries; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, if the death of an employee is caused by an injury by accident arising out of and in the course of employment covered by state laws on industrial insurance, the surviving spouse of the deceased employee may receive a compensation known as a death benefit. (NRS 616C.505) The death benefit presently ends upon the surviving spouse's death or remarriage. (NRS 616C.505) This bill allows the surviving spouse of a deceased police officer or firefighter *who was killed in the line of duty* to continue to receive certain compensation under the death benefit even if the surviving spouse remarries.

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

Section 1. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, if the surviving spouse of a deceased police officer or firefighter who was killed in the line of duty is entitled to be paid compensation pursuant to subsection 2 of NRS 616C.505, the surviving spouse:

(a) Must be paid that compensation until the death of the surviving spouse, whether or not the surviving spouse remarries; and

(b) Must not be paid any compensation pursuant to subsection 2 of NRS 616C.505 in one lump sum upon remarriage.

2. If the surviving spouse of a deceased police officer or firefighter becomes the spouse of another employee who thereafter dies under circumstances that would otherwise entitle the surviving spouse to be paid compensation pursuant to subsection 2 of NRS 616C.505 with respect to the other employee, the surviving spouse:

(a) Must not be paid compensation pursuant to subsection 2 of NRS 616C.505 with respect to the other employee; and

(b) Shall be deemed to have predeceased the other employee for the purposes of chapters 616A to 616D, inclusive, of NRS.

3. The provisions of this section:

(a) Do not apply to the surviving spouse of a deceased police officer or firefighter if the death of that police officer or firefighter is made compensable only by chapter 617 of NRS; and

(b) Do not affect any compensation payable under chapter 617 of NRS.

4. As used in this section, "killed in the line of duty" means killed as a direct and proximate result of injuries sustained:

(a) If the person is on duty:

(1) While en route to or from, or otherwise responding to, an emergency, a call for service, a request for assistance or a situation requiring immediate law enforcement or emergency service attention; or

(2) From a hostile act;

(b) If the person is off duty, is a police officer and is using the tools of his trade, while en route to or from, or otherwise responding to, an emergency, a call for service, a request for assistance or a situation requiring immediate law enforcement attention; or

(c) During training that is approved by his employer and is scheduled or identified as training before the training occurs.

Sec. 2. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit ~~[,]~~ and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed $5,000. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. ~~[To]~~ *Except as otherwise provided in section 1 of this act, to* the surviving spouse of the deceased employee, 66 2/3 percent of the average monthly wage is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage.

3. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 11, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

4. Upon the remarriage of a surviving spouse with children:

(a) The surviving spouse must be paid 2 years' compensation in one lump sum and further benefits must cease; and

(b) Each child must be paid 15 percent of the average monthly wage, up to a maximum family benefit of 66 2/3 percent of the average monthly wage.

➥ *The provisions of this subsection do not apply to the remarriage of a surviving spouse of a deceased police officer or firefighter if the provisions of section 1 of this act apply to the surviving spouse.*

5. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his proportionate share of 66 2/3 percent of the average monthly wage for his support.

6. Except as otherwise provided in subsection 7, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 33 1/3 percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 66 2/3 percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, his proportionate share of 66 2/3 percent of the average monthly wage.

7. The aggregate compensation payable pursuant to subsection 6 must not exceed 66 2/3 percent of the average monthly wage.

8. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury causing his death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

9. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

10. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to him, funeral expenses are payable in an amount not to exceed $5,000.

11. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any

compensation in excess of $3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 12 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, "incompetent" has the meaning ascribed to it in NRS 159.019.

12. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his proportionate share of compensation pursuant to this section ceases when he dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if he is:

(a) Over 18 years of age and incapable of supporting himself, until such time as he becomes capable of supporting himself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until he reaches the age of 22 years.

13. As used in this section, "surviving spouse" means a surviving husband or wife who was married to the employee at the time of the employee's death.

Sec. 3. The amendatory provisions of sections 1 and 2 of this act do not apply to a surviving spouse of a deceased police officer or firefighter if the surviving spouse is remarried before October 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy, Carlton and Townsend.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 59.

Bill read second time.

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

Amendment No. 338.

"SUMMARY—Makes various changes relating to the State Plan for Medicaid. (BDR 38-766)"

"AN ACT relating to public welfare; requiring the Director of the Department of Health and Human Services to include in the State Plan for Medicaid a requirement that certain children with disabilities are eligible for Medicaid; *requiring the Department to investigate the feasibility of*

establishing a program to verify the provider of primary insurance for recipients of Medicaid and insurance through the Children's Health Insurance Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing federal law authorizes a state to provide Medicaid coverage to certain children with disabilities: (1) who are under 19 years of age; (2) who would be eligible for supplemental security income disability benefits except for their income or resources; and (3) whose family income does not exceed a certain income level established by the state. (42 U.S.C. § 1396a(a)(10)(A)(ii)(XIX), 42 U.S.C. § 1396a(cc)(1)) Existing federal law further provides that the Federal Government will provide matching federal funds for such Medicaid coverage to those children with disabilities whose family income does not exceed 300 percent of the federal poverty line as is applicable to that size of family. ~~[However, federal law also provides that the Federal Government may not provide federal matching funds for such Medicaid coverage to those children with disabilities whose family income exceeds that income limit of 300 percent of the federal poverty line,]~~ (42 U.S.C. § 1396a(cc)(1)) ~~[, 42 U.S.C. § 1397jj(c)(5))]~~

Section ~~[1]~~ *2* of this bill requires the Director of the Department of Health and Human Services to amend the State Plan for Medicaid to provide, within the limitations of available funding, Medicaid coverage to a child with a disability who satisfies the Medicaid eligibility requirements set forth in federal law and whose family income does not exceed the ~~[greater of: (1) the]~~ income level set forth in federal law . ~~[; or (2) 400 percent of the federal poverty line as is applicable to that size of family. Because existing federal law prohibits federal funds from being used to provide Medicaid coverage to a child whose family income is greater than 300 percent of the federal poverty line, Medicaid coverage for any child with a disability in this State whose family income falls between 300 and 400 percent of the federal poverty line must be provided solely with state funds.]~~ (42 U.S.C. § 1396a(cc)(1)) Section ~~[1]~~ *2* further requires the Director, in a manner consistent with federal law, to charge a premium for such Medicaid coverage to the family of a child with a disability unless the Director waives the premium.

Section 3 of this bill requires the Department to investigate the feasibility of establishing a program to verify the primary insurance provider of recipients of Medicaid and insurance through the Children's Health Insurance Program. Section 3 also authorizes the Department to contract with a qualified and independent consultant to conduct the investigation. If the Department determines it is feasible, the Department shall adopt regulations to establish such a program.

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

~~[Section 1.]~~ *Sec. 2.* ~~[Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. Except as otherwise provided in subsection 2 and within the limitations of available funding, the Director shall include in the State Plan for Medicaid a requirement that a child with a disability is eligible for Medicaid.

2. If the parent of a child with a disability is eligible to obtain coverage for the child under a group health plan as defined in section 2791(a) of the Public Health Service Act, 42 U.S.C. § 300gg-91(a), offered by his employer and for which the employer contributes at least 50 percent towards the premium for such coverage, the parent must obtain such coverage for the child to be or remain eligible for Medicaid pursuant to subsection 1.

3. The Director shall, in a manner that is consistent with federal law, require the family of a child with a disability who is eligible for Medicaid pursuant to subsection 1 to pay a premium unless the Director waives the premium.

4. If the coverage described in subsection 2 is obtained, the Director, pursuant to 42 U.S.C. § 1396a(cc)(2)(ii), shall:

(a) Reduce any premium imposed by subsection 3 by an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

(b) Treat the coverage as a third party liability pursuant to 42 U.S.C. § 1396a(a)(25).

5. As used in this section, "child with a disability" means a child described in 42 U.S.C. § 1396a(cc)(1) whose family income does not exceed ~~*[:*~~

~~*(a) The]*~~ *the income level set forth in 42 U.S.C. § 1396a(cc)(1) and for whom the Federal Government provides federal funds pursuant to 42 U.S.C. § 1396a(cc)(1)* . ~~*[; or*~~

~~*(b) Four hundred percent of the poverty line as defined in 42 U.S.C. § 1397jj(c)(5), applicable to the size of that family,*~~

~~*whichever is greater.]*~~

Sec. 3. 1. The Department shall investigate the feasibility of establishing a program to verify the provider of primary insurance for recipients of Medicaid and persons who receive insurance pursuant to the Children's Health Insurance Program.

2. If the Department determines that such a program is feasible, the Department shall adopt regulations to establish a program to verify the provider of primary insurance for recipients of Medicaid and persons who receive insurance pursuant to the Children's Health Insurance Program, including, without limitation, regulations prescribing the information that must be submitted by a provider of health care pursuant to the program and the form for submission of such information.

3. The Department may, through a process of competitive bidding, contract with a qualified and independent consultant to carry out the investigation required by subsection 1.

~~[Sec. 2.]~~ *Sec. 4.* This act becomes effective on October 1, 2008.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 110.

Bill read second time.

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

Amendment No. 418.

"SUMMARY—Revises provisions governing the administration of examinations to pupils enrolled in the public schools. (BDR 34-474)"

"AN ACT relating to education; ~~[restricting the number of]~~ *revising provisions governing the administration of tests,* examinations ~~[that may be administered]~~ *and assessments* by the boards of trustees of school districts *;* ~~[and the governing bodies of charter schools in each school year; excluding from the restrictions the examinations required by federal law and certain other examinations and assessments;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the administration of the following examinations to pupils enrolled in the public schools: (1) examinations that are administered to a national reference group of pupils in grades 4, 7 and 10 (norm-referenced tests or NRTs); (2) examinations that assess the progress of pupils on the state standards of content and performance in grades 3 through 8 (criterion-referenced tests or CRTs); (3) the high school proficiency examination which pupils must pass to receive a standard high school diploma; and (4) examinations of the National Assessment of Educational Progress. (NRS 389.012, 389.015, 389.550) With the exception of the NRTs, the administration of these examinations is required by the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq.

~~[Section 5 of this bill eliminates the requirement that each school district and each charter school administer the NRTs to pupils. In addition to the CRTs, the high school proficiency examination and any other examination required by federal law, each school district and each charter school may administer one additional examination per grade level each school year to pupils enrolled in kindergarten and grades 1 to 12, inclusive. The State Board of Education is required to prescribe the additional examinations that may be administered, and the Department of Education is required to maintain a list of those additional examinations.]~~

Section 1 of this bill authorizes the board of trustees of each school district to require the administration of additional district-wide tests, examinations and assessments that the board of trustees determines are vital to measuring pupil achievement and progress.

Section 2 of this bill requires the Boards of Trustees of the Clark County and Washoe County School Districts to submit reports to the Legislative Committee on Education concerning the testing of pupils within their respective districts.

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

Delete existing sections 1 through 15 of this bill and replace with the following new sections 1 through 3:

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments that the board of trustees determines are vital to measure the achievement and progress of pupils.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

Sec. 2. 1. The Boards of Trustees of the Clark County School District and the Washoe County School District shall prepare and submit to the Legislative Committee on Education on or before July 1, 2008, reports concerning testing of pupils within their respective school districts.

2. The reports required pursuant to subsection 1 must include:

(a) The number of hours pupils in the district spend in testing;

(b) The best practices adopted by the district with respect to using testing time efficiently in comparison with using the time for instruction; and

(c) Any recommendations for legislative changes or changes in practices with respect to the testing of pupils.

Sec. 3. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 113.

Bill read second time.

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

Amendment No. 426.

"SUMMARY—Requires certain policies of health insurance and health care plans to provide coverage for ~~[annual]~~ screenings for prostate cancer in certain circumstances. (BDR 57-333)"

"AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide coverage for ~~[annual]~~ screenings for prostate cancer in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures , including colorectal cancer screenings, cytological screening tests and mammograms , in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees including coverage for the procedures required to be covered by insurers if the employer provides health benefits for its employees. (NRS 608.1555) Sections 2-11 of this bill require those health care plans and policies of insurance, other than the State Plan for Medicaid, *that provide coverage for the treatment of prostate cancer* to also provide coverage for ~~[annual]~~ screenings for prostate cancer in certain circumstances. ~~[Sections 2, 4-6 and 9-11 also provide that such policies of health insurance and health care plans must not require prior authorization or charge a deductible, copayment or coinsurance for the provision of coverage for annual screenings for prostate cancer.]~~

Section 1 of this bill clarifies that policies of health insurance and health care plans which provide for such prostate cancer screenings must not require the insured to obtain prior authorization for the screening from the insurer or organization. (NRS 687B.225)

The provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after the effective date of the bill, October 1, 2007.

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

Section 1. NRS 687B.225 is hereby amended to read as follows:

687B.225 1. Except as otherwise provided in NRS 689A.0405, 689A.0413, 689B.031, 689B.0374, 695B.1912, 695B.1914, 695C.1713, 695C.1735 and 695G.170, *and sections 2, 4, 5, 6, 9 and 10 of this act,* any contract for group, blanket or individual health insurance or any contract by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for payment of a certain part of medical or dental

care may require the insured or member to obtain prior authorization for that care from the insurer or organization. The insurer or organization shall:

(a) File its procedure for obtaining approval of care pursuant to this section for approval by the Commissioner; and

(b) Respond to any request for approval by the insured or member pursuant to this section within 20 days after it receives the request.

2. The procedure for prior authorization may not discriminate among persons licensed to provide the covered care.

Sec. 2. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A policy of health insurance ~~[must provide coverage for benefits payable for expenses incurred for an annual screening for prostate cancer for:~~

~~(a) Men 40 years of age or older; and~~

~~(b) Men 35 years of age or older who have a high risk of developing prostate cancer.~~

~~2. An annual screening for prostate cancer pursuant to subsection 1 must include a blood test to determine the amount of prostate specific antigen in the blood and a digital rectal examination, regardless of the results of one of those tests.~~

~~3. For purposes of this section, a man has a high risk of developing prostate cancer if he has a definite or indeterminate family history of prostate cancer, if he is African-American or if he is considered at high risk of developing prostate cancer according to the guidelines for the early detection of prostate cancer established by the National Alliance of State Prostate Cancer Coalitions or according to guidelines established or approved by the Task Force on Prostate Cancer created pursuant to NRS 457.310.~~

~~4. A policy of health insurance must not:~~

~~(a) Require an insured to obtain prior authorization for any service provided pursuant to subsection 1; or~~

~~(b) Charge a deductible, copayment or coinsurance for the provision of coverage required by subsection 1.~~

~~5.]~~ that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

Sec. 3. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[.]~~ *, and section 2 of this act.*

Sec. 4. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A policy of group health insurance ~~[must provide coverage for benefits payable for expenses incurred for an annual screening for prostate cancer for:~~

~~(a) Men 40 years of age or older; and~~

~~(b) Men 35 years of age or older who have a high risk of developing prostate cancer.~~

~~2. An annual screening for prostate cancer pursuant to subsection 1 must include a blood test to determine the amount of prostate-specific antigen in the blood and a digital rectal examination, regardless of the results of one of those tests.~~

~~3. For purposes of this section, a man has a high risk of developing prostate cancer if he has a definite or indeterminate family history of prostate cancer, if he is African-American or if he is considered at high risk of developing prostate cancer according to the guidelines for the early detection of prostate cancer established by the National Alliance of State Prostate Cancer Coalitions or according to guidelines established or approved by the Task Force on Prostate Cancer created pursuant to NRS 457.310.~~

~~4. A policy of group health insurance must not:~~

~~(a) Require an insured to obtain prior authorization for any service provided pursuant to subsection 1; or~~

~~(b) Charge a deductible, copayment or coinsurance for the provision of coverage required by subsection 1.~~

~~5.]~~ that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

Sec. 5. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A policy of health insurance issued by a hospital or medical service corporation ~~[must provide coverage for benefits payable for expenses incurred for an annual screening for prostate cancer for:~~

~~(a) Men 40 years of age or older; and~~

~~(b) Men 35 years of age or older who have a high risk of developing prostate cancer.~~

~~2. An annual screening for prostate cancer pursuant to subsection 1 must include a blood test to determine the amount of prostate-specific antigen in the blood and a digital rectal examination, regardless of the results of one of those tests.~~

~~3. For purposes of this section, a man has a high risk of developing prostate cancer if he has a definite or indeterminate family history of prostate cancer, if he is African-American or if he is considered at high risk of developing prostate cancer according to the guidelines for the early detection of prostate cancer established by the National Alliance of State Prostate Cancer Coalitions or according to guidelines established or approved by the Task Force on Prostate Cancer created pursuant to NRS 457.310.~~

~~4. A policy of health insurance issued by a hospital or medical service corporation must not:~~

~~(a) Require an insured to obtain prior authorization for any service provided pursuant to subsection 1; or~~

~~(b) Charge a deductible, copayment or coinsurance for the provision of coverage required by subsection 1.~~

~~5.]~~ that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

Sec. 6. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a health maintenance ~~[plan must provide coverage for benefits payable for expenses incurred for an annual screening for prostate cancer for:~~

~~(a) Men 40 years of age or older; and~~

~~(b) Men 35 years of age or older who have a high risk of developing prostate cancer.~~

~~2. An annual screening for prostate cancer pursuant to subsection 1 must include a blood test to determine the amount of prostate-specific antigen in~~

~~*the blood and a digital rectal examination, regardless of the results of one of those tests.*~~

~~*3. For purposes of this section, a man has a high risk of developing prostate cancer if he has a definite or indeterminate family history of prostate cancer, if he is African-American or if he is considered at high risk of developing prostate cancer according to the guidelines for the early detection of prostate cancer established by the National Alliance of State Prostate Cancer Coalitions or according to guidelines established or approved by the Task Force on Prostate Cancer created pursuant to NRS 457.310.*~~

~~*4. A health maintenance plan must not:*~~

~~*(a) Require an insured to obtain prior authorization for any service provided pursuant to subsection 1; or*~~

~~*(b) Charge a deductible, copayment or coinsurance for the provision of coverage required by subsection 1.*~~

~~*5. A policy]*~~ *organization that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:*

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. An evidence of coverage for a health care plan subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the ~~*[policy]*~~ *evidence of coverage or the renewal which is in conflict with subsection 1 is void.*

Sec. 7. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, *and section 6 of this act,* 695C.250 and 695C.265 do not apply to a health maintenance organization that provides

health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 8. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, *and section 6 of this act,* or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 9. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a managed care organization ~~[must provide coverage for benefits payable for expenses incurred for an annual screening for prostate cancer for:~~

~~(a) Men 40 years of age or older; and~~

~~(b) Men 35 years of age or older who have a high risk of developing prostate cancer.~~

~~2. An annual screening for prostate cancer pursuant to subsection 1 must include a blood test to determine the amount of prostate-specific antigen in the blood and a digital rectal examination, regardless of the results of one of those tests.~~

~~3. For purposes of this section, a man has a high risk of developing prostate cancer if he has a definite or indeterminate family history of prostate cancer, if he is African-American or if he is considered at high risk of developing prostate cancer according to the guidelines for the early detection of prostate cancer established by the National Alliance of State Prostate Cancer Coalitions or according to guidelines established or approved by the Task Force on Prostate Cancer created pursuant to NRS 457.310.~~

~~*4. A health care plan issued by a managed care organization must not:*~~

~~*(a) Require an insured to obtain prior authorization for any service provided pursuant to subsection 1; or*~~

~~*(b) Charge a deductible, copayment or coinsurance for the provision of coverage required by subsection 1.*~~

~~*5.*~~ *that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:*

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. An evidence of coverage for a health care plan subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 is void.

Sec. 10. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance ~~*[shall provide coverage for an annual screening for prostate cancer for:*~~

~~*(a) Men 40 years of age or older; and*~~

~~*(b) Men 35 years of age or older who have a high risk of developing prostate cancer.*~~

~~*2. An annual screening for prostate cancer pursuant to subsection 1 must include a blood test to determine the amount of prostate-specific antigen in the blood and a digital rectal examination, regardless of the results of one of those tests.*~~

~~*3. For purposes of this section, a man has a high risk of developing prostate cancer if he has a definite or indeterminate family history of prostate cancer, if he is African-American or if he is considered at high risk of developing prostate cancer according to the guidelines for the early detection of prostate cancer established by the National Alliance of State Prostate Cancer Coalitions or according to guidelines established or approved by the Task Force on Prostate Cancer created pursuant to NRS 457.310.*~~

~~*4. A plan of self-insurance described in subsection 1 must not:*~~

~~*(a) Require an insured to obtain prior authorization for any service provided pursuant to subsection 1; or*~~

~~*(b) Charge a deductible, copayment or coinsurance for the provision of coverage required by subsection 1.*~~

~~5.]~~ *that provides coverage for the treatment of prostate cancer shall provide coverage for prostate cancer screening in accordance with:*

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A plan of self-insurance described in subsection 1 which is offered, delivered, issued for delivery or renewed on or after October 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the ~~[evidence of coverage]~~ plan or the renewal which is in conflict with subsection 1 is void.

Sec. 11. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.170, 695G.173, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, *and section ~~[10]~~ 9 of this act,* in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 12. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 164.

Bill read second time.

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

Amendment No. 302.

"SUMMARY—Revises provisions governing the ~~[Task Force for the]~~ Fund for a Healthy Nevada. (BDR 40-95)"

"AN ACT relating to public health; ~~[revising provisions relating to the administrative support provided to the Task Force for the Fund for a Healthy Nevada;]~~ revising provisions governing allocations for distributions from the Fund *for a Healthy Nevada; revising the membership and duties of the Grants Management Advisory Committee of the Department of Health and Human Services; repealing the Task Force for the Fund for a Healthy Nevada;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law ~~[requires the Legislative Counsel Bureau and the Department of Health and Human Services to provide administrative support to]~~ *establishes* the Task Force for the Fund for a Healthy Nevada ~~[.]~~ *which is responsible for the distribution of certain grants from the Fund for a Healthy*

Nevada. (NRS 439.625 ~~[)]~~ *, 439.630)* ~~[Section 1 of this bill removes the Legislative Counsel Bureau from that role and instead requires the Legislative Counsel Bureau to provide research and assistance on fiscal matters at the request of a member of the Task Force who is a Legislator.~~

~~Section 2 of this bill sets out a procedure for the processing of grant applications by the Department on behalf of the Task Force.]~~ *This bill repeals the section creating the Task Force and transfers certain responsibilities of the Task Force to the Department of Health and Human Services.*

Section 4 of this bill requires the Legislative Committee on Health Care to recommend to the Department priorities, which were previously set by the Task Force, for certain programs that receive an award of money from the Fund. (NRS 439B.220)

The Grants Management Advisory Committee provides assistance to the Department in the allocation and administration of certain grants administered by the Department. (NRS 232.383, 232.385) Section 5 of this bill revises the membership of the Advisory Committee to include a person with experience in administering tobacco cessation programs, a provider of health care, an appointment by the Majority Leader of the Senate and an appointment by the Speaker of the Assembly. Section 6 of this bill requires the Advisory Committee to make recommendations to the Department for awards of money from the Fund and to monitor the awards of money granted from the Fund.

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

Section 1. NRS 439.620 is hereby amended to read as follows:

439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) Fifty percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Fifty percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

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

4. ~~[Upon receiving a request from the]~~ *The* State Treasurer or the Department *may submit to the Interim Finance Committee a request* for an allocation for administrative expenses from the Fund pursuant to this section . ~~[, the Task Force for the Fund for a Healthy Nevada shall consider the request within 45 days after receipt of the request. If the Task Force approves the amount requested for allocation, the Task Force shall notify the State Treasurer of the allocation. If the Task Force does not approve the requested allocation within 45 days after receipt of the request, the State Treasurer or the Department, as applicable, may submit its request for allocation to the Interim Finance Committee.]~~ Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund ~~[, whether allocated by the Task Force or the Interim Finance Committee]~~ must not exceed:

(a) Not more than 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund;

(b) Not more than 2.025 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging Services Division of the Department, to carry out its duties set forth in NRS ~~[439.625 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 NRS 439.705 to 439.795, inclusive.

➥ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to the Department ~~[and, except as otherwise provided in paragraphs (c) to (f), inclusive, and (j) of subsection 1 of NRS 439.630, may only be expended pursuant to an]~~ *for expenditure or* allocation ~~[made by the Task Force for the Fund for a Healthy Nevada.]~~ *in accordance with the provisions of NRS 439.630.* Money expended from the Fund for a Healthy

Nevada must not be used to supplant existing methods of funding that are available to public agencies.

~~[Section 1.]~~ *Sec. 2.* ~~[NRS 439.625 is hereby amended to read as follows:~~

~~439.625 1. The Task Force for the Fund for a Healthy Nevada is hereby created. The membership of the Task Force consists of:~~

~~(a) Three members appointed by the Majority Leader of the Senate, one of whom must be a Senator and one of whom must be a member of a nonprofit organization dedicated to health issues in this State;~~

~~(b) Three members appointed by the Speaker of the Assembly, one of whom must be an Assemblyman and one of whom must be a member of a nonprofit organization dedicated to health issues in this State; and~~

~~(c) Three members appointed by the Governor, one of whom must have experience with and knowledge of matters relating to health care.~~

~~➡ Each member appointed pursuant to this subsection must be a resident of this State and must not be employed in the Executive or Judicial Branch of State Government. Each person who appoints members pursuant to this subsection shall ensure that insofar as practicable, the members whom he appoints reflect the ethnic and geographical diversity of this State.~~

~~2. At its first meeting on or after July 1 of each odd-numbered year, the Task Force shall select the Chairman and Vice Chairman of the Task Force from among the legislative members of the Task Force. Each such officer shall hold office for a term of 2 years or until his successor is selected. The chairmanship of the Task Force must alternate each biennium between the houses of the Legislature.~~

~~3. For each day or portion of a day during which a member of the Task Force who is a Legislator attends a meeting of the Task Force or is otherwise engaged in the work of the Task Force, except during a regular or special session of the Legislature, he is entitled to receive the:~~

~~(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session;~~

~~(b) Per diem allowance provided for state officers and employees generally; and~~

~~(c) Travel expenses provided pursuant to NRS 218.2207.~~

~~➡ The compensation, per diem allowances and travel expenses of the legislative members of the Task Force must be paid from the Legislative Fund.~~

~~4. Members of the Task Force who are not Legislators serve without salary, except that they are entitled to receive travel expenses provided for state officers and employees generally. The travel expenses of:~~

~~(a) A member of the Task Force who is an officer or employee of a local government thereof must be paid by the local government that employs him.~~

~~(b) Each remaining member of the Task Force must be paid from the Legislative Fund.~~

~~5. Each member of the Task Force who is an officer or employee of a local government must be relieved from his duties without loss of his regular compensation so that he may perform his duties relating to the Task Force in the most timely manner practicable. A local government shall not require an officer or employee who is a member of the Task Force to:~~

~~(a) Make up the time he is absent from work to fulfill his obligations as a member of the Task Force; or~~

~~(b) Take annual leave or compensatory time for the absence.~~

~~6. The Legislative Counsel Bureau and the Department shall provide such administrative support to the Task Force as is required to carry out the duties of the Task Force. The State Health Officer shall provide such technical advice and assistance to the Task Force as is requested by the Task Force. *The Legislative Counsel Bureau shall provide research and assistance with fiscal matters at the request of a member of the Task Force who is a Legislator.*~~ *(Deleted by amendment.)* *(Deleted by amendment.)*

~~[Sec. 2.]~~ *Sec. 3.* NRS 439.630 is hereby amended to read as follows:

439.630 1. The ~~[Task Force for the Fund for a Healthy Nevada]~~ *Department* shall:

(a) Conduct *, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct,* public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(1) Promote public health;

(2) Improve health services for children, senior citizens and persons with disabilities;

(3) Reduce or prevent the use of tobacco;

(4) Reduce or prevent the abuse of and addiction to alcohol and drugs; and

(5) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities.

(c) Reserve not more than 30 percent of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money reserved to the Department pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the ~~[Task Force for the Fund for a~~

~~Healthy Nevada]~~ *Legislative Committee on Health Care* in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The Department shall submit a quarterly report to the Governor, the ~~[Task Force for the Fund for a Healthy Nevada]~~ *Legislative Committee on Health Care* and the Interim Finance Committee regarding the general manner in which expenditures have been made pursuant to this paragraph and the status of the program.

(d) Reserve not more than 30 percent minus $350,000 of all revenues deposited in the Fund for a Healthy Nevada each year for allocation by the Aging Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

(1) Respite care or relief of family caretakers;

(2) Transportation to new or existing services to assist senior citizens in living independently; and

(3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➥ The Aging Services Division of the Department shall consider recommendations from the ~~[Task Force for the Fund for a Healthy Nevada]~~ *Legislative Committee on Health Care* concerning the independent living needs of senior citizens.

(e) Reserve not more than $200,000 of all revenues deposited in the Fund for a Healthy Nevada each year for allocation by the Director to:

(1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and

(2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

➥ The Director shall develop policies and procedures for allocating money which is reserved pursuant to this paragraph.

(f) Reserve $150,000 of all revenues deposited in the Fund for a Healthy Nevada each year, if available, for allocation by the Aging Services Division of the Department in the form of contracts or grants for existing or new programs that provide dental benefits to persons who are domiciled in this State and are 62 years of age or older:

(1) Who satisfy the residency requirement set forth in subsection 2 of NRS 439.665; and

(2) Whose incomes are not over the amounts set forth in subsection 2 of NRS 439.665, as adjusted pursuant to the provisions of that section.

(g) Allocate, by contract or grant, for expenditure not more than 20 percent of all revenues deposited in the Fund for a Healthy Nevada each year for programs that prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco.

(h) Allocate, by contract or grant, for expenditure not more than 10 percent of all revenues deposited in the Fund for a Healthy Nevada each year for programs that improve health services for children.

(i) Allocate, by contract or grant, for expenditure not more than 7.5 percent of all revenues deposited in the Fund for a Healthy Nevada each year for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the ~~[Task Force]~~ *Department* shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite for persons caring for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

(j) Reserve not more than 2.5 percent of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs and pharmaceutical services to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the ~~[Task Force for the Fund for a Healthy Nevada]~~ *Legislative Committee on Health Care* in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

(k) Maximize expenditures through local, federal and private matching contributions.

(l) Ensure that any money expended from the Fund for a Healthy Nevada will not be used to supplant existing methods of funding that are available to public agencies.

(m) Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

(n) To make the allocations required by paragraphs (g), (h) and (i):

(1) ~~[Prioritize and quantify]~~ *Review and consider the prioritized list of* the needs for these programs ~~[,]~~ *submitted by the Legislative Committee on Health Care pursuant to NRS 439B.220;*

(2) Develop, solicit and accept applications for allocations *;* ~~*[and submit those applications to the Department for processing pursuant to subsection 6;]*~~

(3) *Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;*

(4) Conduct annual evaluations of programs to which allocations have been awarded; and

~~[(4)]~~ *(5)* Submit annual reports concerning the programs to *the Legislative Committee on Health Care*, the Governor and the Interim Finance Committee.

(o) Transmit a report of all findings, recommendations and expenditures to the Governor *, the Legislative Committee on Health Care* and each regular session of the Legislature.

2. The ~~[Task Force]~~ *Department* may take such other actions as are necessary to carry out its duties.

3. ~~[The Department shall take all actions necessary to ensure that all allocations for expenditures made by the Task Force are carried out as directed by the Task Force.~~

~~4.]~~ To make the allocations required by paragraphs (d) and (f) of subsection 1, the Aging Services Division of the Department shall:

(a) Prioritize and quantify the needs of senior citizens for these programs;

(b) Develop, solicit and accept grant applications for allocations;

(c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;

(d) Award grants, contracts or other allocations;

(e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and

(f) Submit annual reports concerning the allocations made by the Aging Services Division pursuant to paragraphs (d) and (f) of subsection 1 to the Governor *, the Legislative Committee on Health Care* and the Interim Finance Committee.

~~[5.]~~ *4.* The Aging Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging Services Division of the Department shall not expend or transfer any money allocated to the Aging Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs and pharmaceutical services to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs and pharmaceutical services to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

~~[6. The Department, on behalf of the Task Force, shall process each application for an allocation pursuant to paragraph (g), (h) or (i) of subsection 1 and make recommendations to the Task Force for awards of money. Such recommendations must be based upon the priorities set by the Task Force pursuant to paragraph (n) of subsection 1. The Task Force may:~~

~~(a) Approve or deny a recommendation made by the Department.~~

~~*(b) Allocate, from any unexpended funds available pursuant to paragraph (g), (h) or (i) of subsection 1, money for a program, study or evaluation that was not funded through the grant process or not recommended for funding by the Department.*~~

~~*7.]*~~ *5.* The Department ~~[, on behalf of the Task Force,]~~ shall submit each allocation proposed pursuant to paragraph (g), (h) or (i) of subsection 1 which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the contract or grant is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money.

Sec. 4. *NRS 439B.220 is hereby amended to read as follows:*

439B.220 *1.* The Committee may:

~~[1.]~~ *(a)* Review and evaluate the quality and effectiveness of programs for the prevention of illness.

~~[2.]~~ *(b)* Review and compare the costs of medical care among communities in Nevada with similar communities in other states.

~~[3.]~~ *(c)* Analyze the overall system of medical care in the State to determine ways to coordinate the providing of services to all members of society, avoid the duplication of services and achieve the most efficient use of all available resources.

~~[4.]~~ *(d)* Examine the business of providing insurance, including the development of cooperation with health maintenance organizations and organizations which restrict the performance of medical services to certain physicians and hospitals, and procedures to contain the costs of these services.

~~[5.]~~ *(e)* Examine hospitals to:

~~[(a)]~~ *(1)* Increase cooperation among hospitals;

~~[(b)]~~ *(2)* Increase the use of regional medical centers; and

~~[(c)]~~ *(3)* Encourage hospitals to use medical procedures which do not require the patient to be admitted to the hospital and to use the resulting extra space in alternative ways.

~~[6.]~~ *(f)* Examine medical malpractice.

~~[7.]~~ *(g)* Examine the system of education to coordinate:

~~[(a)]~~ *(1)* Programs in health education, including those for the prevention of illness and those which teach the best use of available medical services; and

~~[(b)]~~ *(2)* The education of those who provide medical care.

~~[8.]~~ *(h)* Review competitive mechanisms to aid in the reduction of the costs of medical care.

~~[9.]~~ *(i)* Examine the problem of providing and paying for medical care for indigent and medically indigent persons, including medical care provided by physicians.

~~[10.]~~ *(j)* Examine the effectiveness of any legislation enacted to accomplish the purpose of restraining the costs of health care while ensuring

the quality of services, and its effect on the subjects listed in ~~[subsections 1 to 9,]~~ *paragraphs (a) to (i),* inclusive.

~~[11.]~~ *(k)* Determine whether regulation by the State will be necessary in the future by examining hospitals for evidence of:

~~[(a)]~~ *(1)* Degradation or discontinuation of services previously offered, including without limitation, neonatal care, pulmonary services and pathology services; or

~~[(b)]~~ *(2)* A change in the policy of the hospital concerning contracts,

➥ as a result of any legislation enacted to accomplish the purpose of restraining the costs of health care while ensuring the quality of services.

~~[12.]~~ *(l)* Study the effect of the acuity of the care provided by a hospital upon the revenues of the hospital and upon limitations upon that revenue.

~~[13.]~~ *(m)* Review the actions of the Director in administering the provisions of this chapter and adopting regulations pursuant to those provisions. The Director shall report to the Committee concerning any regulations proposed or adopted pursuant to this chapter.

~~[14.]~~ *(n)* Identify and evaluate, with the assistance of an advisory group, the alternatives to institutionalization for providing long-term care, including, without limitation:

~~[(a)]~~ *(1)* An analysis of the costs of the alternatives to institutionalization and the costs of institutionalization for persons receiving long-term care in this State;

~~[(b)]~~ *(2)* A determination of the effects of the various methods of providing long-term care services on the quality of life of persons receiving those services in this State;

~~[(c)]~~ *(3)* A determination of the personnel required for each method of providing long-term care services in this State; and

~~[(d)]~~ *(4)* A determination of the methods for funding the long-term care services provided to all persons who are receiving or who are eligible to receive those services in this State.

~~[15.]~~ *(o)* Evaluate, with the assistance of an advisory group, the feasibility of obtaining a waiver from the Federal Government to integrate and coordinate acute care services provided through Medicare and long-term care services provided through Medicaid in this State.

~~[16.]~~ *(p)* Evaluate, with the assistance of an advisory group, the feasibility of obtaining a waiver from the Federal Government to eliminate the requirement that elderly persons in this State impoverish themselves as a condition of receiving assistance for long-term care.

~~[17.]~~ *(q)* Conduct investigations and hold hearings in connection with its review and analysis.

~~[18.]~~ *(r)* Apply for any available grants and accept any gifts, grants or donations to aid the Committee in carrying out its duties pursuant to this chapter.

~~[19.]~~ *(s)* Direct the Legislative Counsel Bureau to assist in its research, investigations, review and analysis.

~~[20.]~~ *(t)* Recommend to the Legislature as a result of its review any appropriate legislation.

2. The Committee shall:

(a) Prioritize the needs for programs for the receipt of awards of money pursuant to paragraphs (g), (h) and (i) of subsection 1 of NRS 439.630 and deliver to the Department and the Grants Management Advisory Committee created by NRS 232.383 a list of those priorities; and

(b) Make recommendations to the Aging Services Division of the Department concerning the independent living needs of senior citizens for purposes of allocating money pursuant to paragraph (d) of subsection 1 of NRS 439.630.

Sec. 5. NRS 232.383 is hereby amended to read as follows:

232.383 1. The Grants Management Advisory Committee *, consisting of 15 members,* is hereby created within the Department.

2. The Advisory Committee consists of ~~[the following 11]~~ *:*

(a) The following 13 members appointed by the Director:

~~[(a)]~~ *(1)* A superintendent of a county school district;

~~[(b)]~~ *(2)* A director of a local agency providing services for abused or neglected children;

~~[(c)]~~ *(3)* A representative of a community organization involved with children;

~~[(d)]~~ *(4)* A representative of a department of juvenile justice services;

~~[(e)]~~ *(5)* A member who possesses knowledge, skill and experience in the provision of services to senior citizens;

~~[(f)]~~ *(6)* Two members who possess knowledge, skill and experience in finance or in business generally;

~~[(g)]~~ *(7)* A representative of the Nevada Association of Counties;

~~[(h)]~~ *(8)* A representative of a broad-based nonprofit organization who possesses knowledge, skill and experience in collaborating with the community and in building partnerships between the public sector and the private sector; ~~[and~~

~~(i)]~~ *(9)* Two members of the public who possess knowledge of or experience in the provision of services to persons or families who are disadvantaged or at risk ~~[.]~~ *;*

(10) A member who possesses knowledge, skill and experience in the provision of services relating to the cessation of the use of tobacco; and

(11) A provider of health care, as that term is defined in NRS 629.031.

(b) One member appointed by the Majority Leader of the Senate who must not be a member of the Legislature.

(c) One member appointed by the Speaker of the Assembly who must not be a member of the Legislature.

3. ~~[The Director]~~ *Each person who appoints members pursuant to subsection 2* shall ensure that, insofar as practicable, the members whom he appoints reflect the ethnic and geographical diversity of this State.

4. After the initial terms, each member of the Advisory Committee serves for a term of 2 years. Each member of the Advisory Committee continues in office until his successor is appointed.

5. Each member of the Advisory Committee who is not an officer or employee of this State or a political subdivision of this State is entitled to receive a salary of not more than $80 per day, fixed by the Director, while engaged in the business of the Advisory Committee.

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

7. A majority of the members of the Advisory Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Advisory Committee.

8. A member of the Advisory Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee and perform any work necessary to carry out the duties of the Advisory Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Advisory Committee to:

(a) Make up the time he is absent from work to carry out his duties as a member of the Advisory Committee; or

(b) Take annual leave or compensatory time for the absence.

9. The Advisory Committee shall:

(a) At its first meeting and annually thereafter, elect a Chairman from among its members;

(b) Meet at the call of the Director, the Chairman or a majority of its members as necessary, within the budget of the Advisory Committee, but not to exceed six meetings per year; and

(c) Adopt rules for its own management and government.

Sec. 6. *NRS 232.385 is hereby amended to read as follows:*

232.385 The Grants Management Advisory Committee created by NRS 232.383 shall:

1. Review all requests received by the Department for awards of money from agencies of the State or its political subdivisions and nonprofit community organizations or educational institutions which provide or will provide services to persons served by the programs administered by the Department;

2. Submit recommendations to the Director concerning each request for an award of money that the Advisory Committee ~~[believes]~~ *determines* should be granted, including, without limitation, the name of the agency,

nonprofit community organization or educational institution that submitted the request;

3. Adopt policies setting forth criteria to determine which agencies, organizations and institutions to recommend for an award of money;

4. Monitor awards of money granted by the Department to agencies of the State or its political subdivisions, and nonprofit community organizations or educational institutions which provide or will provide services to persons served by the programs administered by the Department ~~[.]~~ *, including, without limitation, awards of money granted pursuant to NRS 439.630;*

5. Assist the staff of the Department in determining the needs of local communities and in setting priorities for funding programs administered by the Department; ~~[and]~~

6. Consider funding strategies for the Department, including, without limitation, seeking ways to avoid unnecessary duplication of the services for which awards of money to agencies of the State or its political subdivisions and nonprofit community organizations or educational institutions are granted, and make recommendations concerning funding strategies to the Director ~~[.]~~ *; and*

7. Review and consider the list of priorities submitted by the Legislative Committee on Health Care pursuant to NRS 439B.220 and submit recommendations to the Department concerning each request for an award of money from the Fund for a Healthy Nevada submitted pursuant to paragraphs (g), (h) and (i) of subsection 1 of NRS 439.630 that the Advisory Committee determines should be granted.

Sec. 7. NRS 439.625 is hereby repealed.

Sec. 8. As soon as practicable after the effective date of this act, and pursuant to NRS 232.383, as amended by section 5 of this act:

1. The Majority Leader of the Senate shall appoint one member to the Grants Management Advisory Committee whose term begins on July 1, 2007, and expires on June 30, 2009.

2. The Speaker of the Assembly shall appoint one member to the Grants Management Advisory Committee whose term begins on July 1, 2007, and expires on June 30, 2009.

3. The Director of the Department of Health and Human Services shall appoint one member to the Grants Management Advisory Committee who possesses knowledge, skills and experience in the provision of services relating to the cessation of the use of tobacco and one member to the Advisory Committee who is a provider of health care whose terms begin on July 1, 2007, and expire on June 30, 2008.

~~[Sec. 3.]~~ *Sec. 9.* This act becomes effective *upon passage and approval for the purpose of making appointments pursuant to section 8 of this act and* on July 1, 2007 ~~[.]~~ *, for all other purposes.*

TEXT OF REPEALED SECTION

439.625 Task Force for Fund: Creation; membership; selection and term of Chairman and Vice Chairman; compensation of members; relief from

regular duties of member who is officer or employee of local government; administrative support and technical assistance.

1. The Task Force for the Fund for a Healthy Nevada is hereby created. The membership of the Task Force consists of:

(a) Three members appointed by the Majority Leader of the Senate, one of whom must be a Senator and one of whom must be a member of a nonprofit organization dedicated to health issues in this State;

(b) Three members appointed by the Speaker of the Assembly, one of whom must be an Assemblyman and one of whom must be a member of a nonprofit organization dedicated to health issues in this State; and

(c) Three members appointed by the Governor, one of whom must have experience with and knowledge of matters relating to health care.

➥ *Each member appointed pursuant to this subsection must be a resident of this State and must not be employed in the Executive or Judicial Branch of State Government. Each person who appoints members pursuant to this subsection shall ensure that insofar as practicable, the members whom he appoints reflect the ethnic and geographical diversity of this State.*

2. At its first meeting on or after July 1 of each odd-numbered year, the Task Force shall select the Chairman and Vice Chairman of the Task Force from among the legislative members of the Task Force. Each such officer shall hold office for a term of 2 years or until his successor is selected. The chairmanship of the Task Force must alternate each biennium between the houses of the Legislature.

3. For each day or portion of a day during which a member of the Task Force who is a Legislator attends a meeting of the Task Force or is otherwise engaged in the work of the Task Force, except during a regular or special session of the Legislature, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

➥ *The compensation, per diem allowances and travel expenses of the legislative members of the Task Force must be paid from the Legislative Fund.*

4. Members of the Task Force who are not Legislators serve without salary, except that they are entitled to receive travel expenses provided for state officers and employees generally. The travel expenses of:

(a) A member of the Task Force who is an officer or employee of a local government thereof must be paid by the local government that employs him.

(b) Each remaining member of the Task Force must be paid from the Legislative Fund.

5. Each member of the Task Force who is an officer or employee of a local government must be relieved from his duties without loss of his regular compensation so that he may perform his duties relating to the Task Force in

the most timely manner practicable. A local government shall not require an officer or employee who is a member of the Task Force to:

(a) Make up the time he is absent from work to fulfill his obligations as a member of the Task Force; or

(b) Take annual leave or compensatory time for the absence.

6. The Legislative Counsel Bureau and the Department shall provide such administrative support to the Task Force as is required to carry out the duties of the Task Force. The State Health Officer shall provide such technical advice and assistance to the Task Force as is requested by the Task Force.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 185.

Bill read second time.

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

Amendment No. 315.

"SUMMARY—Revises provisions governing the Commission on Educational Excellence. (BDR 34-426)"

"AN ACT relating to education; revising provisions governing the award of grants from the Account for Programs for Innovation and the Prevention of Remediation by the Commission on Educational Excellence; requiring the Commission to report certain information concerning allocations from the Account; revising provisions governing the use of money in the Account; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Commission on Educational Excellence is required to establish a program of educational excellence for pupils enrolled in kindergarten through grade 6 in public schools. The Commission is authorized to allocate grants of money from the Account for Programs for Innovation and the Prevention of Remediation in the State General Fund to school districts and public schools for certain programs designed for the achievement of pupils and for innovative programs. (NRS 385.3781-385.379)

Section 2 of this bill requires the Commission to establish guidelines for reviewing, evaluating and approving applications for grants of money from the Account. Section 2 directs that the guidelines include consideration of the list of priorities of schools provided to the Commission by the Department of Education and revises the contents of that list. *Section 2 also requires each school district to provide assistance, upon the request of a public school within the school district, in the development of an application for a grant.* Section 3 of this bill identifies specific information relating to allocations

from the Account that the Commission is required to include in its annual report on the Account.

Section 4 of this bill places a limitation on the amount of money that may be expended from the Account each biennium for expenses incurred by members of the Commission to travel to the school districts and schools that receive allocations from the Account. Section 4 also authorizes the Commission to spend a maximum amount of money from the Account each biennium for: (1) the costs incurred by the Commission to hold meetings and conferences for recipients of allocations from the Account to discuss or display effective programs, practices and strategies; and (2) an evaluation of the programs that received allocations from the Account by an independent consultant.

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

Section 1. NRS 385.3784 is hereby amended to read as follows:

385.3784 1. The Commission on Educational Excellence, consisting of nine members is hereby created. The Superintendent of Public Instruction shall serve as an ex officio voting member of the Commission. The Governor shall appoint the following members to the Commission:

(a) Three teachers, two of whom have experience in providing instruction at public elementary schools and who have been successful in school improvement efforts and one of whom has experience in providing instruction at secondary schools and who has been successful in school improvement efforts;

(b) Two principals, one of whom has experience in administering successful school improvement efforts at an elementary school and one of whom has experience in administering successful school improvement efforts at a secondary school;

(c) Two school district administrators, one of whom is employed by a school district in a county whose population is less than 100,000 and one of whom is employed by a school district in a county whose population is 100,000 or more; and

(d) One parent or legal guardian of a pupil enrolled in a public school in this State.

➥ One or more of the members appointed pursuant to this subsection may be retired from employment, but those retired members that are appointed must have been employed with a public school in this State in the immediately preceding 5 years.

2. The Governor may solicit recommendations for appointments pursuant to this section from the Nevada State Education Association, the Nevada Association of School Administrators, a statewide organization for parents of pupils, the Statewide Council for the Coordination of the Regional Training Programs and other organizations and entities related to education in this State. The Governor may consider the recommendations submitted and may

make appointments from those recommendations. The Governor shall appoint a Chairman from among the members he appoints.

3. After the initial terms, the term of each appointed member of the Commission is 2 years, commencing on January 1 of the year in which he is appointed and expiring on December 31 of the immediately following year. A member shall continue to serve on the Commission until his successor is appointed. Upon the expiration of a term of a member, he may be reappointed if he still possesses any requisite qualifications for appointment. There is no limit on the number of terms that a member may serve.

4. The Commission shall hold at least four regular meetings each year and may hold special meetings at the call of the Chairman.

5. Members of the Commission serve without compensation, except that for each day or portion of a day during which a member of the Commission attends a meeting of the Commission or is otherwise engaged in the business of the Commission, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. ~~[The]~~ *Except as limited by paragraph (a) of subsection 3 of NRS 385.379, the* per diem allowances and travel expenses must be paid from the Account and accounted for separately in that Account. In addition, money in the Account may be used to pay compensation necessary for the employment of substitute teachers who are hired on those days when a member of the Commission attends a meeting of the Commission or is otherwise engaged in the business of the Commission.

6. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out its duties.

7. The Legislative Counsel Bureau:

(a) Must be provided with adequate notice of each meeting of the Commission; and

(b) Shall provide, as requested by the Committee, technical expertise and assistance to the Commission.

Sec. 2. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;

(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation; and

(4) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by school districts and public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both. All school districts and public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the school district or school has made adequate yearly progress or failed to make adequate yearly progress. A school district or public school selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from school districts and public schools that desire to participate in the program.

(e) *Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of schools provided by the Department pursuant to subsection 4. If the guidelines authorize the review and evaluation of applications by less than the entire membership of the Commission, money must not be allocated from the Account for a grant until the entire membership of the Commission has reviewed and approved the application for the grant.*

(f) Prescribe accountability measures to be carried out by a school district or public school that participates in the program if that school district or public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of school districts and schools that participate; and

(2) Conditions for school districts and schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

~~[(f)]~~ *(g)* Determine the amount of money that is available from the Account for those school districts and public schools that are selected to participate in the program.

~~[(g)]~~ *(h)* Allocate money to school districts and public schools from the Account. Allocations must be distributed not later than August 15 of each year.

~~[(h)]~~ *(i)* Establish criteria for school districts and public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria identified in the plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(2) If applicable, the achievement of pupils enrolled in the school district as a whole, based upon measurable criteria identified in the plan to improve the achievement of pupils for the school district prepared pursuant to NRS 385.348;

(3) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff;

(4) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school district or the school is meeting the measurable objectives identified in the plan; and

(5) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to school districts and public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall comply with the requirements of subsection 1.

3. If a school district or public school that receives money pursuant to subsection 1 or 2 does not meet the criteria for effectiveness as prescribed in paragraph ~~[(h)]~~ *(i)* of subsection 1 over a 2-year period, the Commission may consider not awarding future allocations of money to that school district or public school.

4. On or before July 1 of each year, the Department shall provide a list of priorities of schools ~~[based upon the]~~ *that indicates:*

(a) The adequate yearly progress status of schools in the immediately preceding year *; and*

(b) The schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole,

➥ for consideration by the Commission in its development of procedures for the applications.

5. *A public school, including, without limitation, a charter school, may request assistance from the school district in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school that requests assistance pursuant to this subsection to ensure that the application of the school:*

(a) Is based directly upon the plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(b) Is developed in accordance with the criteria established by the Commission;

(c) Contains a reasonable request for money that is logically connected to the program for which the money is being requested; and

(d) Does not duplicate the programs or services already available to the school through the school district.

6. In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 3. NRS 385.3789 is hereby amended to read as follows:

385.3789 1. The Commission shall prepare an annual report that describes the distribution of money to the school districts and public schools and the programs for which money was allocated from the Account ~~[.]~~ , *including, without limitation, the total amount of money allocated:*

(a) To each school district;

(b) To each public school;

(c) To schools included on the list of priorities of schools provided by the Department pursuant to NRS 385.3785;

(d) For programs that provide services directly to pupils for remediation and innovation, including, without limitation, instruction, instructional materials and support materials;

(e) For programs that provide instructional support and have an indirect effect on pupils, including, without limitation, the provision of professional development for educational personnel and the employment of administrators; and

(f) For each program, including, without limitation:

(1) A description of the program, including, without limitation, whether the program is available commercially;

(2) Whether the Commission considers the program to be innovative;

(3) Whether the program includes the provision of professional development other than professional development that is related to carrying out a program that provides services directly to pupils;

(4) The costs to implement the program; and

(5) The full-time personnel necessary to implement the program, if any.

➥ The report must be submitted on or before September 1 of each year to the entities identified in subsection 3.

2. The Commission shall:

(a) Prepare an annual report that describes:

(1) The activities of the Commission;

(2) An analysis of the progress of the school districts and public schools in carrying out the plans to improve the achievement of pupils; and

(3) An analysis of the progress of the school district and public schools that received an allocation of money from the Account in improving the achievement of pupils.

(b) Submit the report on or before January 31 of each year to the entities identified in subsection 3.

3. The Commission shall submit the reports required by this section to the:

(a) State Board;

(b) Governor;

(c) Committee;

(d) Bureau;

(e) Interim Finance Committee; and

(f) Board of trustees of each school district.

Sec. 4. NRS 385.379 is hereby amended to read as follows:

385.379 1. The Account for Programs for Innovation and the Prevention of Remediation is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2 ~~[.]~~ *or 3.* The interest and income earned on the money in the Account must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

2. ~~[The]~~ *Except as otherwise provided in NRS 385.3784 and subsection 3, the* money in the Account may only be used for the allocation of money to school districts and public schools whose applications are approved by the Commission pursuant to NRS 385.3785.

3. Upon the request of the Commission:

(a) Not more than $50,000 in the Account may be used each biennium to pay:

(1) The expenses incurred by members of the Commission to travel to the school districts and public schools that received allocations of money from the Account; and

(2) The costs incurred by the Commission to hold meetings or conferences for representatives of school districts and public schools that received allocations of money from the Account to discuss or display, or both, programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(b) Not more than $250,000 in the Account may be used each biennium to pay for an evaluation of the programs for which money was allocated from

the Account. If the Commission uses money in the Account for such an evaluation, the Commission shall ensure that:

(1) A request for proposals is issued and a qualified, independent consultant is selected to conduct the evaluation;

(2) Upon selection of the consultant, the Commission receives approval of the consultant and the plan for the evaluation from the Committee;

(3) The evaluation is designed to determine the effectiveness of the programs for which money was allocated from the Account in improving achievement of pupils; and

(4) The evaluation includes a compilation and review of each evaluation required to be submitted by school districts and public schools pursuant to NRS 385.3787.

Sec. 5. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 231.

Bill read second time.

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

Amendment No. 131.

"SUMMARY—Revises provisions relating to confidentiality of contents of prescriptions. (BDR 54-524)"

"AN ACT relating to prescription drugs; providing expressly for the confidentiality of the contents of a prescription on file in a pharmacy; prohibiting *a pharmacy or* any person who has access to the contents of a prescription on file in a pharmacy from divulging any of the contents of the prescription to any person with certain exceptions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that prescriptions on file in a pharmacy are not public records, and also prohibits a pharmacist from releasing the contents of a prescription except to specified persons under specified circumstances. (NRS 639.238) This bill expressly provides that all contents of prescriptions on file in a pharmacy are confidential. This bill also prohibits *a pharmacy or* any person who has access to the contents of a prescription on file in a pharmacy from divulging any of the contents of the prescription to any person except to the persons ~~[currently]~~ authorized by law to receive such information. Additionally, this bill *adds to and revises the list of persons who are authorized to receive such information. Finally, this bill* provides that aggregated data concerning prescriptions can be released if the identity of the patients and the prescribing physicians is not revealed.

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

Section 1. NRS 639.238 is hereby amended to read as follows:

639.238 1. Prescriptions filled and on file in a pharmacy , *including, without limitation, all contents of prescriptions,* are *confidential and are* not a public record. Except as otherwise provided in *this section and* NRS 639.2357, a *pharmacy,* pharmacist *and any other person who has access to the contents of prescriptions on file in a pharmacy* shall not divulge *any of* the contents of any prescription or provide a copy of any prescription ~~[,]~~ *to any person,* except *:* ~~[to:]~~

(a) The patient for whom the original prescription was issued;

(b) The practitioner who originally issued the prescription;

(c) A practitioner who is then treating the patient;

(d) A member, inspector or investigator of the Board or an inspector of the Food and Drug Administration or an agent of the Investigation Division of the Department of Public Safety;

(e) An agency of *the Federal or* State Government charged with the responsibility of providing medical care for the patient;

(f) An insurance carrier ~~[, on receipt of written authorization signed by the patient or his legal guardian, authorizing the release of such information;]~~ *or health plan:*

(1) That is responsible for paying all or part of a claim for the prescription; or

(2) For the purposes of formulary compliance, case management or utilization review;

(g) Any person authorized by an order of a district court;

(h) Any member, inspector or investigator of a professional licensing board which licenses a practitioner who orders prescriptions filled at the pharmacy;

(i) Other registered pharmacists for the limited purpose of and to the extent necessary for the exchange of information relating to persons who are suspected of:

(1) Misusing prescriptions to obtain excessive amounts of drugs; or

(2) Failing to use a drug in conformity with the directions for its use or taking a drug in combination with other drugs in a manner that could result in injury to that person; ~~[or]~~

(j) A peace officer employed by a local government for the limited purpose of and to the extent necessary:

(1) For the investigation of an alleged crime reported by an employee of the pharmacy where the crime was committed; or

(2) To carry out a search warrant or subpoena issued pursuant to a court order ~~[.]~~ *; ~~[or]~~*

(k) A county coroner, medical examiner or investigator employed by an office of a county coroner for the purpose of:

(1) Identifying a deceased person;

(2) Determining a cause of death; or

(3) Performing other duties authorized by law ~~[.]~~ ;

(l) A person effectuating a drug alert, drug recall or other notice relating to drug safety;

(m) A pharmacy benefit manager as needed for the performance of his duties; or

(n) A person engaging in health care research that is funded in whole or in part by the Federal Government.

2. Any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is issued to a county coroner, medical examiner or investigator employed by an office of a county coroner must be limited to a copy of the prescription filled or on file for:

(a) The person whose name is on the container of the controlled substance or dangerous drug that is found on or near the body of a deceased person; or

(b) The deceased person whose cause of death is being determined.

3. Except as otherwise provided in NRS 639.2357, any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS, issued to a person authorized by this section to receive such a copy, must contain all of the information appearing on the original prescription and be clearly marked on its face "Copy, Not Refillable—For Reference Purposes Only." The copy must bear the name or initials of the registered pharmacist who prepared the copy.

4. If a copy of a prescription for any controlled substance or a dangerous drug as defined in chapter 454 of NRS is furnished to the customer, the original prescription must be voided and notations made thereon showing the date and the name of the person to whom the copy was furnished.

5. *The provisions of this section do not prohibit the collection or release of aggregated data concerning prescriptions, provided that the aggregated data cannot be used to identify any patient to whom a prescription was issued or any practitioner who issued a prescription.*

6. As used in this section ~~[, "peace]~~ *:*

(a) "Contents of prescriptions" includes, without limitation, any information contained in a prescription that can be used to identify:

(1) The patient for whom the original prescription was issued; and

(2) The practitioner who originally issued the prescription.

(b) "Peace officer" does not include:

~~[(a)]~~ *(1)* A member of the Police Department of the Nevada System of Higher Education.

~~[(b)]~~ *(2)* A school police officer who is appointed or employed pursuant to NRS 391.100.

Sec. 2. This act becomes effective upon passage and approval.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 233.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 409.

"SUMMARY—Revises and repeals certain taxes on financial institutions ~~[.]~~ *and other businesses.* (BDR 32-951)"

"AN ACT relating to ~~[state financial administration; repealing certain excise taxes on financial institutions; requiring financial institutions to pay the excise tax imposed on employers based on the wages paid to their employees;]~~ *taxation; revising and repealing certain taxes on financial institutions and other businesses;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires each financial institution to pay an excise tax of 2 percent of the wages paid by the financial institution. (NRS 363A.130) Section 1 of this bill provides for incremental reductions in the rate of that tax.

Existing law requires other businesses to pay an excise tax of 0.63 percent of the wages paid by those businesses, and provides for an increase in that rate to 0.65 percent on July 1, 2007. (NRS 363B.110) Section 2 of this bill repeals the provisions that would have caused that increase to become effective.

Existing law requires each bank to pay an excise tax of $1,750 for each branch office the bank maintains in this State in excess of one branch office in each county . ~~[and requires each financial institution to pay an excise tax of 2 percent of the wages paid by the financial institution. (Chapter 363A of NRS) This]~~ *(NRS 363A.120) Section 3 of this* bill repeals ~~[these taxes and requires each financial institution to pay the excise tax which all employers must pay based on the wages paid to their employees. (Chapter 363B of NRS) After July 1, 2007, the rate of this tax is 0.65 percent of the wages paid by the employer. (NRS 363B.110)]~~ *that tax.*

~~[WHEREAS, The terrorist attacks of September 11, 2001, caused an economic downturn across the United States; and~~

~~WHEREAS, This economic downturn had a special impact on Nevada because of the State's reliance on the tourism industry; and~~

~~WHEREAS, This economic downturn had significant impact on the revenue which supports the operations of this State; and~~

~~WHEREAS, To address projected shortfalls of revenue, the 72nd Session of the Nevada Legislature enacted new taxes on certain businesses and industries, including, without limitation, the modified business tax on financial institutions and an excise tax on banks; and~~

~~WHEREAS, The revenue generated by these new taxes has exceeded forecasts; and~~

~~WHEREAS, The modified business tax on financial institutions and the excise tax on banks single out specific businesses which provide vital services to other businesses and the residents of this State; and~~

~~WHEREAS, If the Legislature had not enacted the modified business tax on financial institutions and the excise tax on banks and had treated financial institutions the same as other business entities which were subjected to the modified business tax, the revenue generated during the last two biennia would have exceeded forecasts; now, therefore,~~]

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

Delete existing sections 1 through 27 of this bill and replace with the following new sections 1 through 5:

Section 1. *NRS 363A.130 is hereby amended to read as follows:*

363A.130 1. There is hereby imposed an excise tax on each employer at the rate ~~[of 2]~~ *:*

(a) Of 1.67 percent of the wages, as defined in NRS 612.190, paid by the employer during ~~[a calendar quarter]~~ *each of the calendar quarters beginning on January 1, 2008, and April 1, 2008;*

(b) Of 1.34 percent of the wages, as defined in NRS 612.190, paid by the employer during each calendar quarter of the fiscal year beginning on July 1, 2008;

(c) Of 1.01 percent of the wages, as defined in NRS 612.190, paid by the employer during each calendar quarter of the fiscal year beginning on July 1, 2009;

(d) Of 0.68 percent of the wages, as defined in NRS 612.190, paid by the employer during each calendar quarter of the fiscal year beginning on July 1, 2010; and

(e) Of 0.63 percent of the wages, as defined in NRS 612.190, paid by the employer during each calendar quarter of each fiscal year beginning on or after July 1, 2011,

➥ with respect to employment in connection with the business activities of the employer.

2. The tax imposed by this section:

(a) Does not apply to any person or other entity or any wages this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Must not be deducted, in whole or in part, from any wages of persons in the employment of the employer.

3. Each employer shall, on or before the last day of the month immediately following each calendar quarter for which the employer is required to pay a contribution pursuant to NRS 612.535:

(a) File with the Department a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this section for that calendar quarter.

Sec. 2. *Section 3 of chapter 451, Statutes of Nevada 2005, at page 2082, is hereby amended to read as follows:*

Sec. 3. This act becomes effective on July 1, 2005 . ~~[, and expires by limitation on June 30, 2007.]~~

Sec. 3. *NRS 363A.120 is hereby repealed.*

Sec. 4. *The amendatory provisions of section 1 of this act do not apply to any taxes due for any period ending on or before December 31, 2007.*

Sec. 5. *1. This section and section 2 of this act become effective upon passage and approval.*

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

3. Sections 1 and 4 of this act become effective on January 1, 2008.

TEXT OF REPEALED SECTION

363A.120 Excise tax on banks: Imposition, amount and payment; filing of return.

1. There is hereby imposed an excise tax on each bank at the rate of $1,750 for each branch office maintained by the bank in this State in excess of one branch office maintained by the bank in each county in this State on the first day of each calendar quarter.

2. Each bank that maintains more than one branch office in any county in this State on the first day of a calendar quarter shall, on or before the last day of the first month of that calendar quarter:

(a) File with the Department a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this section for the branch offices maintained by the bank in this State on the first day of that calendar quarter.

3. For the purposes of this section:

(a) "Bank" means:

(1) A corporation or limited-liability company that is chartered by this State, another state or the United States which conducts banking or banking and trust business; or

(2) A foreign bank licensed pursuant to chapter 666A of NRS.

➥ *The term does not include a financial institution engaging in business pursuant to chapter 677 of NRS, a credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act, or any person or other entity this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.*

(b) "Branch office" means any location or facility of a bank where deposit accounts are opened, deposits are accepted, checks are paid and loans are granted, including, but not limited to, a brick and mortar location, a detached or attached drive-in facility, a seasonal office, an office on a military base or government installation, a station or unit for paying and receiving, and a location where a customer can open accounts, make deposits and borrow money by telephone or through use of the Internet, and

excluding any automated teller machines, consumer credit offices, contractual offices, customer bank communication terminals, electronic fund transfer units and loan production offices.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 239.

Bill read second time.

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

Amendment No. 316.

"SUMMARY—Creates the P-16 Advisory Council. (BDR 34-416)"

"AN ACT relating to education; creating the P-16 Advisory Council to assist in the coordination between elementary, secondary and higher education in this State; providing for the organization, powers and duties of the Council; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill creates the P-16 Advisory Council to assist in the coordination between elementary, secondary and higher education in this State.

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

Section 1. Title 34 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 9 inclusive, of this act.

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

Sec. 3. *"Council" means the P-16 Advisory Council created by section 6 of this act.*

Sec. 4. *"System" means the Nevada System of Higher Education.*

Sec. 5. *The Legislature hereby finds and declares that:*

1. The Board of Regents of the University of Nevada was created by the Nevada Constitution and empowered to control and manage the affairs of the Nevada System of Higher Education.

2. Matters relating to ~~[higher]~~ education are vitally important to the future of the State of Nevada, its economy and the general welfare of its residents. In light of the growing enrollments in Nevada's system of public elementary and secondary education and Nevada's ~~[public]~~ system of public higher education, it is important that the Nevada Legislature, the Board of Regents and the Executive Branch of the State Government work together as partners in developing a needed public agenda to advance ~~[higher]~~ education in this State.

3. The development of an agenda to advance ~~[higher]~~ education should be carried out with a view toward seeking input from all parties who have a stake in the advancement of ~~[higher]~~ education in this State . ~~[, including, without limitation, the students who participate in Nevada's public system of higher education.]~~

4. Coordination between elementary, secondary and higher education must be strengthened to ensure that pupils in the 12th grade are prepared adequately to make the transition from secondary education to higher education or to careers. To this end, a body should be established to coordinate education from the level of preschool through the completion of a bachelor's degree, to be known as the P-16 Advisory Council.

Sec. 6. *1. The P-16 Advisory Council, consisting of ~~[15]~~ 11 voting members, is hereby created to assist in the coordination between elementary, secondary and higher education in this State.*

2. ~~[The Chancellor of the System and the Superintendent of Public Instruction serve as ex officio voting members of the Council.~~

~~3.]~~ The Governor shall appoint five members to the Council as follows:

(a) One representative of higher education in this State.

(b) One representative of elementary and secondary education in this State.

(c) One representative of early childhood education in this State.

(d) One representative of private business in this State.

~~[(d)]~~ (e) One person that meets the qualifications of paragraph (a), (b) ~~[or (c).]~~ , (c) or (d).

~~[(e) One pupil enrolled in a secondary school or one student enrolled in the System to serve as a representative of public education for kindergarten through postsecondary education.~~

~~4.]~~

➥ *The Governor may appoint the Chancellor of the System and the Superintendent of Public Instruction as members of the Council pursuant to paragraphs (a) and (b), respectively.*

3. The Majority Leader of the Senate and the Speaker of the Assembly shall each appoint ~~[four]~~ two members to the Council as follows:

(a) One member of the House of the Legislature that he represents.

(b) One ~~[representative of higher education in this State.~~

~~(c) One representative of elementary and secondary education in this State.~~

~~(d) One representative of private business in this State.~~

~~5.]~~ member who meets the requirements of paragraph (a), (b), (c) or (d) of subsection 2.

4. The Minority Leader of the Senate and the Minority Leader of the Assembly shall each appoint one member to the Council who is a member of the general public.

5. The Governor shall appoint a Chairman and a Vice Chairman from among the members of the Council who represent business or the general

public. After the initial term, the Chairman and Vice Chairman serve in the office for a term of 2 years beginning July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the Governor shall appoint a member to fill the vacancy from among the members who represent business or the general public to serve for the remainder of the unexpired term of that office.

6. After the initial terms, each ~~[appointed]~~ member of the Council serves a term of 3 years commencing on July 1 of the year of appointment. Such members may be reappointed for one additional term. A vacancy on the Council must be filled for the remainder of the unexpired term in the same manner as the original appointment. Each member of the Council continues in office until his successor is appointed.

7. Any member who is absent from two consecutive meetings of the Council without permission of the Chairman:

(a) Forfeits his office; and

(b) Must be replaced as provided in subsection 6 for the filling of a vacancy before the end of a term.

Sec. 7. *1. The Council shall meet at least once each calendar quarter ~~[.]~~ and as frequently as necessary to afford the general public, representatives of governmental agencies and representatives of organizations an opportunity to present information and recommendations relating to the coordination between elementary, secondary and postsecondary education.*

2. The ~~[members of the Council shall elect a Chairman and a Vice Chairman from among the membership of the Council. After the initial election, the Chairman and Vice Chairman serve in the office for a term of 1 year beginning on July 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Council shall elect a Chairman or Vice Chairman, as appropriate, from among the members to serve for the remainder of the unexpired term.]~~ Council shall comply with the provisions of chapter 241 of NRS.

3. For each day or portion of a day during which the members of the Council attend a meeting of the Council or are otherwise engaged in the business of the Council:

(a) The members who are Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207, payable from the Legislative Fund.

(b) The members who are appointed by the Majority Leader of the Senate , ~~[and]~~ the Speaker of the Assembly , the Minority Leader of the Senate and the Minority Leader of the Assembly who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable from the Legislative Fund.

(c) The members who are appointed by the Governor are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable as other claims against the State are paid.

4. The ~~[Legislative Counsel Bureau]~~ Office of the Governor shall provide ~~[administrative support to the Council.]~~ :

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Council to carry out its duties.

5. The Board of Regents of the University of Nevada and the Department shall provide technical assistance to the Council upon the request of the Chairman.

Sec. 8. *1. The Council shall address:*

(a) Methods to increase the number of students who enroll in programs at the System to become teachers, including, without limitation, financial aid programs for students enrolled in those programs.

(b) Methods to ensure the successful transition of pupils from:

(1) Elementary school to middle school;

(2) Middle school to high school; and

(3) High school to postsecondary education,

➥ including, without limitation, methods to increase parental involvement.

(c) Methods to ensure that the data information system for the pupils enrolled in the public schools is linked, to the extent feasible, with the data information system for the students enrolled in the System.

(d) Methods to ensure that the course work, standards and assessments required of pupils in secondary schools is aligned with the workload expected of students at the postsecondary level.

(e) Methods to ensure collaboration among the business community, members of the academic community and political leaders to set forth a process for developing strategies for the growth and diversification of the economy of this State.

(f) Policies relating to workforce development, employment needs of private employers and workforce shortages in occupations critical to the education, health and safety of the residents of this State.

(g) Other matters within the scope of the Council as determined necessary or appropriate by the Council.

2. The Council may:

(a) Establish committees to assist the Council in carrying out its duties.

(b) Apply for any available grants and may accept any gifts, grants and donations from any source to assist the Council in carrying out its duties.

Sec. 9. *On or before June 30 of each year, the Council shall submit a written report of its activities and any recommendations to the:*

1. Board of Regents of the University of Nevada;

2. State Board;

3. Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; ~~[and]~~

4. Legislative Committee on Education ~~[.]~~ ; and

5. Governor.

Sec. 10. 1. On or before September 1, 2007, the Governor shall, pursuant to subsection ~~[3]~~ *2* of section 6 of this act, appoint to the P-16 Advisory Council created by that section:

(a) Three members to terms commencing on September 1, 2007, and expiring on June 30, 2009.

(b) Two members to terms commencing on September 1, 2007, and expiring on June 30, 2010.

2. On or before September 1, 2007, the Majority Leader of the Senate and the Speaker of the Assembly shall, pursuant to subsection ~~[4]~~ *3* of section 6 of this act, each appoint to the P-16 Advisory Council created by that section:

(a) ~~[Two members]~~ *One member* to ~~[terms]~~ *a term* commencing on September 1, 2007, and expiring on June 30, 2009.

(b) ~~[Two members]~~ *One member* to ~~[terms]~~ *a term* commencing on September 1, 2007, and expiring on June 30, 2010.

3. On or before September 1, 2007, the Minority Leader of the Senate shall, pursuant to subsection 4 of section 6 of this act, appoint to the P-16 Advisory Council created by that section one member to a term commencing on September 1, 2007, and expiring on June 30, 2009.

4. On or before September 1, 2007, the Minority Leader of the Assembly shall, pursuant to subsection 4 of section 6 of this act, appoint to the P-16 Advisory Council created by that section one member to a term commencing on September 1, 2007, and expiring on June 30, 2010.

Sec. 11. On or before September 1, 2007, the Governor shall, pursuant to subsection 5 of section 6 of this act, appoint a Chairman and a Vice Chairman to the P-16 Advisory Council created by that section to a term commencing on September 1, 2007, and expiring on June 30, 2009.

~~[Sec. 11.]~~ *Sec. 12.* This act becomes effective on July 1, 2007.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 244.

Bill read second time.

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

Amendment No. 318.

"SUMMARY—Revises provisions governing *the collection of data relating to the tracking of* waiting times for emergency medical services at hospitals. (BDR 40-94)"

"AN ACT relating to emergency medical services; requiring the ~~[Health Division of the Department of Health and Human Services to conduct an on-going study]~~ *State Board of Health to develop a system of collecting data* relating to waiting times at hospitals; *requiring hospitals and providers of emergency medical services in certain counties to participate in the collection of data;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that hospitals and providers of emergency medical services are required to transfer a person who arrives at the hospital by an ambulance, air ambulance or vehicle of a fire-fighting agency to an appropriate place in the hospital to receive emergency services and care within 30 minutes after the time at which the person arrives at the hospital. Existing law also requires *the Health Division of the Department of Health and Human Services to adopt regulations concerning the manner in which* hospitals and providers of emergency medical care ~~[to]~~ *shall* track the time elapsed from when a person arrives at the hospital to the time the person is transferred to an appropriate place to receive care. (NRS 450B.790) Senate Bill No. 458 of the 2005 Legislative Session enacted the statutory requirement for tracking wait times and also required the Health Division ~~[of the Department of Health and Human Services]~~ to conduct a study to identify both the causes of excessive waiting times and any corrective actions that might eliminate excessive waiting times. The provisions requiring the study expired by limitation on December 31, 2006. (Chapter 382, Statutes of Nevada 2005, pp. 1475-77)

Section 1 of this bill ~~[creates an on-going study of waiting times, which is required for all]~~ *requires the State Board of Health to develop a system of collecting data concerning the waiting times. Section 1 also requires* hospitals and providers of emergency medical services in each county whose population is 400,000 or more ~~[,]~~ *to collect certain data relating to waiting times.* In counties whose population is 100,000 or more but less than 400,000, the ~~[State]~~ Board ~~[of Health]~~ may require ~~[a study]~~ *the collection of data* if there are excessive waiting times at one or more hospitals in the county. *Section 2 of this bill eliminates the requirement that the Health Division adopt regulations relating to the tracking of waiting times.*

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health shall collect data, in accordance with the system that is developed by the Board pursuant to subsection 5, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.

2. Each hospital and each provider of emergency medical services in a county whose population is 400,000 or more shall participate in the

collection of data pursuant to this section by collecting data, in accordance with the system that is developed by the State Board of Health pursuant to subsection 5, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.

3. Except as otherwise provided in subsection 4, the hospitals and the providers of emergency medical services in a county whose population is less than 400,000 are not required to participate in the collection of data pursuant to this section unless the county health officer, each hospital and each provider of emergency medical services in the county agree in writing that the county will participate in the collection of data. The county health officer shall submit the written agreement to the State Board of Health.

4. If the State Board of Health determines, in a county whose population is 100,000 or more but less than 400,000, that there are excessive waiting times at one or more hospitals in the county for the provision of emergency services and care to persons who are in need of such services and care and who have been transported to the hospital by a provider of emergency medical services, the State Board of Health may require the county to implement a system of collecting data pursuant to subsection 5 concerning the extent of waiting times and the circumstances surrounding such waiting times.

5. For the purpose of collecting data pursuant to this section, the State Board of Health shall develop a system of collecting data concerning the waiting times of persons for the provision of emergency services and care at a hospital and the surrounding circumstances for such waiting times each time a person is transported to a hospital by a provider of emergency medical services. The system must include, without limitation, an electronic method of recording and collecting the following information:

(a) The time at which a person arrives at the hospital, which is the time that the person is presented to the emergency room of the hospital;

(b) The time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care, which is the time that the person is physically present in the appropriate place and the staff of the emergency room of the hospital have received a report concerning the transfer of the person;

(c) If a person is not transferred to an appropriate place in the hospital to receive emergency services and care within 30 minutes after arriving at the hospital, information detailing the reason for such delay, which may be selected from a predetermined list of possible reasons that are available for selection in the electronic system;

(d) A unique identifier that is assigned to each transfer of a person to a hospital by a provider of emergency medical services which allows the transfer to be identified and reviewed; and

(e) The names of the personnel of the provider of emergency medical services who transported the person to the hospital and of the personnel of the hospital who are responsible for the care of the person after the person arrives at the hospital.

6. The State Board of Health shall ensure that:

(a) The data collected pursuant to subsection 5 is reported to the Health Division on a quarterly basis;

(b) The data collected pursuant to subsection 5 is available to any person or entity participating in the collection of data pursuant to this section; and

(c) The system of collecting data developed pursuant to subsection 5 and all other aspects of the collection comply with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

7. The State Board of Health shall appoint for each county in which hospitals and providers of emergency medical services are participating in the collection of data pursuant to this section an advisory committee consisting of the health officer of the county, a representative of each hospital in the county and a representative of each provider of emergency medical services in the county. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses for his service on the advisory committee. Each advisory committee shall:

(a) Review the data that is collected for the county and submitted to the State Board of Health concerning the waiting times for the provision of emergency services and care, the manner in which such data was collected and any circumstances surrounding such waiting times;

(b) Review each incident in which a person was transferred to an appropriate place in a hospital to receive emergency services and care more than 30 minutes after arriving at the hospital; and

(c) Submit a report of its findings to the State Board of Health.

8. The State Board of Health may delegate its duties set forth in this section to:

(a) The district board of health in a county whose population is 400,000 or more.

(b) The county or district board of health in a county whose population is less than 400,000.

9. The State Board of Health or any county or district board of health that is performing the duties of the State Board of Health pursuant to subsection 8 shall submit a quarterly report to the Legislative Committee on Health Care, which must include a written compilation of the data collected pursuant to this section.

10. The State Board of Health may require each hospital and provider of emergency medical services located in a county that participates in the collection of data pursuant to this section to share in the expense of purchasing hardware and software necessary to carry out the collection of data pursuant to this section.

11. The State Board of Health may, in consultation with each hospital and provider of emergency medical services located in a county that participates in the collection of data pursuant to this section, submit a written request to the Director of the Legislative Counsel Bureau for transmission to a regular session of the Legislature for the repeal of this section. Such a written request must include the justifications and reasons for requesting the termination of the collection of data pursuant to this section.

12. As used in this section:

(a) "Emergency services and care" has the meaning ascribed to it in NRS 439B.410.

(b) "Hospital" has the meaning ascribed to it in NRS 449.012.

(c) "Provider of emergency medical services" means each operator of an ambulance and each fire-fighting agency which has a permit to operate pursuant to this chapter and which provides transportation for persons in need of emergency services and care to hospitals.

~~[Section 1.]~~ *Sec. 2.* NRS 450B.790 is hereby amended to read as follows:

450B.790 1. Each hospital in this State which receives a person in need of emergency services and care who has been transported to the hospital by ~~[an ambulance, air ambulance or vehicle of a fire-fighting agency that has a permit to operate pursuant to this chapter]~~ *a provider of emergency medical services* shall ensure that the person is transferred to a bed, chair, gurney or other appropriate place in the hospital to receive emergency services and care as soon as practicable, but not later than 30 minutes after the time at which the person arrives at the hospital.

2. ~~[The Health Division shall adopt regulations concerning the manner in which]~~ [a] ~~*[the personnel of a* hospital and]~~ ~~[an attendant responsible for the care of a person in need]~~ ~~*[a provider* of emergency services]~~ ~~[and care during transport to the hospital]~~ ~~[shall determine and track the time at which a person arrives at a hospital and the time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care for the purposes of this section. The regulations must provide that:~~

~~(a) The time at which a person arrives at a hospital is the time at which he is presented to the emergency room of the hospital; and~~

~~(b) The time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care is the time at which the person is physically in that place and the staff of the emergency room of the hospital have received a report concerning the person.~~

~~*3. The Health Division shall conduct an on-going study to identify:*~~

~~*(a) The causes of excessive waiting times at hospitals for the provision of emergency services and care to persons who are in need of such services and care and who have been transported to the hospital by a provider of emergency medical services; and*~~

~~*(b) Any corrective actions that may eliminate such excessive waiting times.*~~

~~*4. Each hospital and each provider of emergency medical services in a county whose population is 400,000 or more shall participate in the study conducted pursuant to this section by collecting data, in accordance with the system that is developed by the Health Division pursuant to subsection 7, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.*~~

~~*5. Except as otherwise provided in subsection 6, the hospitals and the providers of emergency medical services in a county whose population is less than 400,000 are not required to participate in the study conducted pursuant to this section unless the county health officer, each hospital and each provider of emergency medical services in the county agree in writing that the county will participate in the study. The county must submit the written agreement to the Health Division.*~~

~~*6. If the State Board of Health determines, in a county whose population is 100,000 or more but less than 400,000, that there are excessive waiting times at one or more hospitals in the county for the provision of emergency services and care to persons who are in need of such services and care and who have been transported to the hospital by a provider of emergency medical services, the State Board of Health may require the county to implement a system of tracking data concerning the extent of waiting times and the circumstances surrounding such waiting times for review by the Health Division in the manner set forth in this section.*~~

~~*7. For the purpose of recording and collecting data for the study conducted pursuant to this section, the Health Division shall establish a system of tracking information concerning the waiting times of persons for the provision of emergency services and care at a hospital and the surrounding circumstances for such waiting times each time a person is transported to a hospital by a provider of emergency medical services. The system of tracking must include, without limitation, an electronic or manual method of recording and collecting the following data in accordance with the regulations adopted by the Health Division pursuant to subsection 2:*~~

~~*(a) The time at which a person arrives at the hospital;*~~

~~*(b) The time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care;*~~

~~*(c) Information relating to the circumstances surrounding the arrival of the person provided by the personnel of the provider of emergency medical services that transports the person to the hospital and by the personnel of the hospital who are responsible for the care of the person after the person arrives at the hospital, including, without limitation, information concerning the volume of patients at the hospital at the time of arrival, the number of personnel at the hospital available to treat the person and the medical condition of the person at the time of his arrival at the hospital;*~~

~~*(d) A unique identifier that is assigned to each transfer of a person to a hospital by a provider of emergency medical services which allows the transfer to be identified and reviewed; and*~~

~~*(e) The names and signatures of the personnel of the provider of emergency medical services who transport the person to the hospital and of the personnel of the hospital who are responsible for the care of the person after the person arrives at the hospital.*~~

~~*8. The Health Division shall ensure that:*~~

~~*(a) The data collected pursuant to subsection 7 is reported to the Health Division on a monthly basis;*~~

~~*(b) The data collected pursuant to subsection 7 is available to any person or entity participating in the study; and*~~

~~*(c) The system of tracking established pursuant to subsection 7 and all other aspects of the study comply with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.*~~

~~*9. The Health Division may impose nonmonetary sanctions upon a hospital or a provider of emergency medical services if it is established by substantial evidence that one or more of its personnel who are responsible for tracking, recording or collecting any data necessary to conduct the study pursuant to this section has knowingly and willfully:*~~

~~*(a) Failed to properly track, record or collect the data; or*~~

~~*(b) Altered, falsified or corrupted the data.*~~

~~*The Health Division shall establish procedures for imposing such nonmonetary sanctions upon a hospital or a provider of emergency medical services.*~~

~~*10. The Health Division shall appoint for each county in which hospitals and providers of emergency medical services are participating in the study conducted pursuant to this section an advisory committee consisting of the health officer of the county, a representative of each hospital in the county, a representative of each operator of an ambulance or air ambulance and a representative of each fire fighting agency which has a permit to operate pursuant to this chapter and which provides transportation for persons in need of emergency services and care to hospitals in the county. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses. The advisory committee shall:*~~

~~*(a) Review the data which has been collected and submitted to the Health Division concerning the waiting times for the provision of emergency services and care, the manner in which such data was collected and any circumstances surrounding such waiting times;*~~

~~*(b) Review each incident in which a person was transferred to an appropriate place in the hospital to receive emergency services and care more than 30 minutes after arriving at the hospital and shall determine all causes for such a delay; and*~~

~~*(c) Submit a report of its findings to the Health Division.*~~

~~*11. The Health Division may delegate its duties set forth in this section to:*~~

~~*(a) The district board of health in a county whose population is 400,000 or more.*~~

~~*(b) The county or district board of health in a county whose population is less than 400,000.*~~

~~*12. The Health Division or any county or district board of health that is performing the duties of the Health Division pursuant to subsection 11 shall submit a quarterly report to the Legislative Committee on Health Care concerning its findings from the study conducted pursuant to this section.*~~

~~*13.]*~~ This section does not create a duty of care and is not a ground for civil or criminal liability.

~~[4.]~~ ~~*[14.]*~~ *3.* As used in this section:

(a) "Emergency services and care" has the meaning ascribed to it in NRS 439B.410.

(b) "Hospital" has the meaning ascribed to it in NRS 449.012.

(c) "Provider of emergency medical services" means each operator of an ambulance ~~*[or air ambulance]*~~ *and each fire-fighting agency which has a permit to operate pursuant to this chapter and which provides transportation for persons in need of emergency services and care to hospitals.*

~~[Sec. 2.]~~ *Sec. 3.* This act becomes effective on July 1, 2007.

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 245.

Bill read second time.

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

Amendment No. 341.

"SUMMARY—Revises provisions governing pupils. (BDR 34-99)"

"AN ACT relating to education; ~~[revising provisions governing the attendance required of pupils to receive credit or be promoted to the next grade;]~~ revising provisions governing the temporary alternative placement of pupils for disruptive behavior; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law requires the boards of trustees of school districts to prescribe the minimum number of days that pupils must be in attendance each school year to obtain credit and be promoted to the next grade. A pupil must be credited as in attendance for up to 10 days each school year for each approved absence. (NRS 392.122) Section 1 of this bill provides that the 10-day limitation on approved absences must be reduced by one day for each time the pupil is truant.]~~

Existing law requires the principal of each public school to establish a plan that provides for the temporary removal of a pupil from the classroom if, in the judgment of the teacher, the pupil engaged in behavior that seriously interferes with the ability of the teacher to teach and with the ability of the other pupils in the classroom to learn. (NRS 392.4642-392.4648) If such a pupil is removed from the classroom, he must be assigned, to the extent practicable, to a temporary alternative placement that is separated from the other pupils in the classroom. (NRS 392.4645) Section 2 of this bill authorizes the board of trustees of a school district to adopt a policy that requires parents and legal guardians of pupils who are temporarily removed from the classroom to pay a reasonable fee for the alternative placement. Such a policy must *be used only for pupils who would otherwise be suspended or expelled from school and must* include a provision for a parent or legal guardian to request a reduction or waiver of the fee for good cause shown, including financial hardship.

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

Section 1. ~~[NRS 392.122 is hereby amended to read as follows:~~

~~392.122 1. The board of trustees of each school district shall prescribe a minimum number of days that a pupil who is subject to compulsory attendance and enrolled in a school in the district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade. The board of trustees of a school district may adopt a policy prescribing a minimum number of days that a pupil who is enrolled in kindergarten or first grade in the school district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade.~~

~~2. [For]~~ ~~*Except as otherwise provided in this subsection, for*~~ ~~the purposes of this section, the days on which a pupil is not in attendance because the pupil is absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS 392.130, must be credited towards the required days of attendance if the pupil has completed course-work requirements. *The 10-day limitation on absences must be reduced by one day for each time the pupil is truant from school.* If the board of trustees of a school district has adopted a policy pursuant to subsection 5, the 10-day limitation on absences does not apply to absences that are excused pursuant to that policy.~~

~~3. Except as otherwise provided in subsection 5, before a pupil is denied credit or promotion to the next higher grade for failure to comply with the attendance requirements prescribed pursuant to subsection 1, the principal of the school in which the pupil is enrolled or his designee shall provide written notice of the intended denial to the parent or legal guardian of the pupil. The notice must include a statement indicating that the pupil and his parent or legal guardian may request a review of the absences of the pupil and a statement of the procedure for requesting such a review. Upon the request for a review by the pupil and his parent or legal guardian, the principal or his~~

~~designee shall review the reason for each absence of the pupil upon which the intended denial of credit or promotion is based. After the review, the principal or his designee shall credit towards the required days of attendance each day of absence for which:~~

~~(a) There is evidence or a written affirmation by the parent or legal guardian of the pupil that the pupil was physically or mentally unable to attend school on the day of the absence; and~~

~~(b) The pupil has completed course work requirements.~~

~~4. A pupil and his parent or legal guardian may appeal a decision of a principal or his designee pursuant to subsection 3 to the board of trustees of the school district in which the pupil is enrolled.~~

~~5. The board of trustees of a school district may adopt a policy to exempt pupils who are physically or mentally unable to attend school from the limitations on absences set forth in subsection 1. If a board of trustees adopts a policy pursuant to this subsection:~~

~~(a) A pupil who receives an exemption pursuant to this subsection is not exempt from the minimum number of days of attendance prescribed pursuant to subsection 1.~~

~~(b) The days on which a pupil is physically or mentally unable to attend school must be credited towards the required days of attendance if the pupil has completed course work requirements.~~

~~(c) The procedure for review of absences set forth in subsection 3 does not apply to days on which the pupil is absent because the pupil is physically or mentally unable to attend school.~~

~~6. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.]~~ *(Deleted by amendment.)*

Sec. 2. NRS 392.4645 is hereby amended to read as follows:

392.4645 1. The plan established pursuant to NRS 392.4644 must provide for the temporary removal of a pupil from a classroom if, in the judgment of the teacher, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn. The plan must provide that, upon the removal of a pupil from a classroom pursuant to this section, the principal of the school shall provide an explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation. Within 24 hours after the removal of a pupil pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal.

2. Except as otherwise provided in subsection 3, a pupil who is removed from a classroom pursuant to this section must be assigned to a temporary alternative placement pursuant to which the pupil:

(a) Is separated, to the extent practicable, from pupils who are not assigned to a temporary alternative placement;

(b) Studies under the supervision of appropriate personnel of the school district; and

(c) Is prohibited from engaging in any extracurricular activity sponsored by the school.

3. The principal shall not assign a pupil to a temporary alternative placement if the suspension or expulsion of a pupil who is removed from the classroom pursuant to this section is:

(a) Required by NRS 392.466; or

(b) Authorized by NRS 392.467 and the principal decides to proceed in accordance with that section.

➥ If the principal proceeds in accordance with NRS 392.466 or 392.467, the pupil must be removed from school in accordance with those sections and the provisions of NRS 392.4642 to 392.4648, inclusive, do not apply to the pupil.

4. The board of trustees of a school district may adopt a policy that requires the parents and legal guardians of pupils who are temporarily removed from the classroom pursuant to this section to pay a reasonable fee for the alternative placement of the ~~[child.]~~ pupil. If the board of trustees adopts such a policy, the policy must ~~[include]~~ :

(a) Apply only in those circumstances in which the pupil would be suspended or expelled from school if he is not temporarily removed pursuant to this section; and

(b) Include a provision for a parent or legal guardian to request and receive a waiver or reduction of the fee for good cause, including, without limitation, financial hardship.

Sec. 3. This act becomes effective on July 1, 2007.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 264.

Bill read second time.

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

Amendment No. 339.

"SUMMARY—Revises provisions governing the licensure of teachers. (BDR 34-910)"

"AN ACT relating to education; providing for the issuance and renewal of a special qualifications license to an applicant who satisfies certain certification, examination and other requirements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person may be issued a special qualifications license to teach if he satisfies certain requirements. (NRS 391.019) This bill provides that such a license may also be issued to a person who holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence, passes certain examinations required by this State and agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

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

Section 1. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of such licenses.

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being qualified to engage in the practice of interpreting pursuant to subsection 3 of NRS 656A.100.

(6) Except as otherwise authorized by subsection 4 of NRS 656A.100, requiring teachers and other educational personnel to satisfy the qualifications set forth in subsection 3 of NRS 656A.100 if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance *and renewal* of a *special qualifications* license to ~~[teach to a person]~~ *an applicant* who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(11) ~~[Providing]~~ If the Commission approves the Passport to Teaching certification from the American Board for Certification of Teacher Excellence as an alternative route to licensure, providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence;

(II) Passes each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; and

(III) Agrees to participate in a program of mentoring prescribed by the Commission for the first year of his employment as a teacher with a school district or charter school.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7) , ~~[or]~~ (10) *or (11)* of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 2. NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.

2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

3. A license to teach secondary education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in any secondary school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the *applicable* regulations of the Commission adopted pursuant to subparagraph (7) , *(10) or (11)* of paragraph (a) of subsection 1 of NRS 391.019.

Sec. 3. NRS 391.037 is hereby amended to read as follows:

391.037 1. The State Board shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions.

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph (7) , ~~[or]~~ (10) *or (11)* of paragraph (a) of subsection 1 of NRS 391.019, an applicant for a license as a teacher or administrator or to perform some other educational function must submit with his application, in the form prescribed by the Superintendent of Public Instruction, proof that he has satisfactorily completed a course of study and training approved by the State Board pursuant to subsection 1.

Sec. 4. *If the Commission on Professional Standards in Education adopts regulations pursuant to subparagraph (11) of paragraph (a) of subsection 1 of NRS 391.019, as amended by section 1 of this act, providing an alternative route to licensure for persons who hold a Passport to Teaching certification from the American Board for Certification of Teacher Excellence, the Commission shall, on or before July 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education a report which includes, without limitation:*

1. The number of applicants for licensure under those provisions;

2. The number of teachers who are licensed under those provisions that are subsequently employed by a school district in this State;

3. The assessment of such teachers by the principals of the schools at which the teachers are employed; and

4. Any recommendations for legislation that may improve the effectiveness of the alternative route to licensure.

~~[Sec. 4.]~~ *Sec. 5.* This act becomes effective on July 1, 2007 ~~[.]~~ *, and expires by limitation on June 30, 2011.*

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 276.

Bill read second time.

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

Amendment No. 348.

"SUMMARY—Makes various changes relating to water. (BDR 30-207)"

"AN ACT relating to water; authorizing the Board for Financing Water Projects to make grants ~~[or loans]~~ from the Fund for Grants for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems to certain political subdivisions of this State to pay the cost of developing infrastructure relating to water resources and implementing water resource plans; changing the name of the Water Rights Technical Support Fund to the Water Rights and Resources Technical Support Fund; authorizing the Board for Financing Water Projects to make grants of money from the Water Rights and

Resources Technical Support Fund to a local government to improve its water resource planning and management of information relating to water resources; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Board for Financing Water Projects is responsible for administering a program to make grants of money from the Fund for Grants for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems to certain water systems for water conservation and capital improvements. (NRS 349.981, 349.982, 349.984)

Section 2 of this bill authorizes the Board to make grants ~~[or loans]~~ of money to certain political subdivisions of this State to develop infrastructure for water resources and implement water resource plans. ~~[The Board is required to give preference in making those grants or loans to eligible recipients in certain rural areas.~~

~~Section 5 of this bill changes the name of the Fund for Grants for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems.]~~

The Board also administers the Water Rights Technical Support Fund. (NRS 534.360) Existing law requires the Board to use the money in the Fund only to make grants of money to local governments to protect their existing water rights. (NRS 534.360)

Section 7 of this bill changes the name of the Water Rights Technical Support Fund. Section 7 also authorizes the Board to make grants of money from the Fund to local governments for improvement of their water resource plans. The Board is required to give preference in making those grants to certain local governments.

Section 9 of this bill appropriates from the State General Fund to the Water Rights and Resources Technical Support Fund the sum of $1,000,000.

WHEREAS, The waters of this State are among its most precious and vital resources; and

WHEREAS, Nevada is one of the most arid states in the nation and has relatively few supplies of surface water and groundwater; and

WHEREAS, The development of infrastructure for water systems and the implementation of water resource plans requires large investments of capital and involves projects which require many years to complete; and

WHEREAS, The adequate funding for water resource planning and the management of information relating to water resources is vitally important for the economic development and prosperity of this State; and

WHEREAS, To the extent that political subdivisions of this State ~~[which are located in cities or towns whose population is less than 10,000 or in counties whose population is less than 100,000,]~~ lack the money to develop water resource plans, manage information relating to water resources, develop infrastructure for water systems and implement a water resource

plan, the economic development of those political subdivisions is limited; now, therefore,

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

Section 1. NRS 349.980 is hereby amended to read as follows:

349.980 As used in NRS 349.980 to 349.987, inclusive, unless the context otherwise requires:

1. "Board" means the Board for Financing Water Projects created pursuant to NRS 349.957.

2. "Community sewage disposal system" means a public system of sewage disposal which is operated for the benefit of a county, city, district or other political subdivision of this State.

3. "Community water system" means a public water system which:

(a) Has 15 or more service connections; or

(b) Serves 25 or more persons,

➥ at places which are intended for year-round occupancy.

4. "Costs of capital improvements to community water systems and nontransient water systems" means the costs traditionally associated with capital improvements to such systems and includes costs associated with the:

(a) Consolidation of existing systems; and

(b) Transfer and connection of a public water system to a system owned by a purveyor of water or a public utility.

5. "Division of Environmental Protection" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

6. "Fund" means the Fund for Grants ~~*[and Loans]*~~ for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems ~~[.]~~ *created pursuant to NRS 349.984.*

7. "Individual sewage disposal system" means a single system of sewage treatment tanks and effluent disposal facilities that serves:

(a) A single-family dwelling; or

(b) One or more buildings that are used exclusively for commercial purposes and are not used as single-family dwellings.

8. "Nontransient water system" means a public water system that regularly serves 25 or more of the same persons for more than 6 months per year, but which is not a community water system.

9. "Public water system" has the meaning ascribed to it in NRS ~~[445A.840.]~~ *445A.235.*

10. "Purveyor of water" means a political subdivision of this State engaged in the business of furnishing water, for compensation, to persons within the political subdivision.

Sec. 2. NRS 349.981 is hereby amended to read as follows:

349.981 1. There is hereby established a program to provide grants ~~*[:*~~ ~~*(a) Grants]*~~ of money to:

(a) ~~[(1)]~~ A purveyor of water to pay for costs of capital improvements to publicly owned community water systems and publicly owned nontransient water systems required or made necessary by the State Environmental Commission pursuant to NRS 445A.800 to 445A.955, inclusive, or made necessary by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto.

(b) ~~[(2)]~~ An eligible recipient to pay for the cost of improvements to conserve water, including, without limitation:

(1) ~~[(I)]~~ Piping or lining of an irrigation canal;

(2) ~~[(II)]~~ Recovery or recycling of wastewater or tailwater;

(3) ~~[(III)]~~ Scheduling of irrigation;

(4) ~~[(IV)]~~ Measurement or metering of the use of water;

(5) ~~[(V)]~~ Improving the efficiency of irrigation operations; and

(6) ~~[(VI)]~~ Improving the efficiency of the operation of a facility for the storage of water, including, without limitation, efficiency in diverting water to such a facility.

(c) ~~[(3)]~~ An eligible recipient to pay the following costs associated with connecting a *property formerly served by a* domestic well or well with a temporary permit to a municipal water system, if the well was in existence on or before October 1, 1999, and the well is located in an area designated by the State Engineer pursuant to NRS 534.120 as an area where the groundwater basin is being depleted:

(1) ~~[(I)]~~ Any local or regional fee for connection to the municipal water system.

(2) ~~[(II)]~~ The cost of any capital improvement that is required to comply with a decision or regulation of the State Engineer.

(d) ~~[(4)]~~ An eligible recipient to pay the following costs associated with abandoning an individual sewage disposal system and connecting the property formerly served by the abandoned individual sewage disposal system to a community sewage disposal system, if the Division of Environmental Protection requires the individual sewage disposal system to be abandoned and the property upon which the individual sewage disposal system was located to be connected to a community sewage disposal system pursuant to the provisions of NRS 445A.300 to 445A.730, inclusive, or any regulations adopted pursuant thereto:

(1) ~~[(I)]~~ Any local or regional fee for connection to the community sewage disposal system.

(2) ~~[(II)]~~ The cost of any capital improvement that is required to comply with a statute of this State or a decision, directive, order or regulation of the Division of Environmental Protection.

(e) ~~[(5)]~~ An eligible recipient to pay the following costs associated with connecting a *property formerly served by a* well to a municipal water system, if the quality of the water of the well fails to comply with the standards of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto:

(1) ~~[(I)]~~ Any local or regional fee for connection to the municipal water system.

(2) ~~[(II)]~~ The cost of any capital improvement that is required for the water quality in the area where the well is located to comply with the standards of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto.

~~*[(b) Grants or loans of money to an]*~~

(f) An eligible recipient to pay the costs to develop infrastructure relating to water resources and implement a water resource plan, including, without limitation, expanding or constructing a facility or water system. ~~*[In making its determination which eligible recipients will receive grants or loans pursuant to this paragraph, the Board shall give preference to eligible recipients in rural areas.]*~~

2. Except as otherwise provided in NRS 349.983, the determination of who is to receive a grant ~~*[or loan]*~~ is solely within the discretion of the Board.

3. As used in this section , "eligible ~~*[*~~ recipient" means a political subdivision of this State, including, without limitation, a city, county, unincorporated town, water authority, conservation district, irrigation district, water district or water conservancy district.

~~*[(b) "Rural area" means an area in a town or city whose population is less than 10,000 or a county whose population is less than 100,000.]*~~

Sec. 3. ~~[NRS 349.982 is hereby amended to read as follows:~~

~~349.982 1. The Board shall administer the program and shall adopt regulations necessary for that purpose.~~

~~2. The regulations must provide such requirements for participation in the program as the Board deems necessary.~~

~~3. The money in the Fund may be used to defray, in whole or in part, the costs of administering the Fund and the expenses of the Board in administering the program.~~

~~4. The Board may, by regulation, impose an administrative fee which must be collected from each recipient of a grant or loan from the Fund. If such a fee is imposed, all revenue derived from the fee must be used to defray, in whole or in part, the costs of administering the Fund and the expenses of the Board in administering the program.]~~ *(Deleted by amendment.)*

Sec. 4. NRS 349.983 is hereby amended to read as follows:

349.983 1. Grants may be made pursuant to ~~*[subparagraph (1) of]*~~ paragraph (a) of subsection 1 of NRS 349.981 only for the Lincoln County Water District and those community and nontransient water systems that:

(a) Were in existence on January 1, 1995; and

(b) Are currently publicly owned.

2. In making its determination of which purveyors of water are to receive grants pursuant to ~~*[subparagraph (1) of]*~~ paragraph (a) of subsection 1 of

NRS 349.981, the Board shall give preference to those purveyors of water whose public water systems regularly serve fewer than 6,000 persons.

3. Each recipient of a grant pursuant to ~~*[subparagraph (1) of]*~~ paragraph (a) of subsection 1 of NRS 349.981 shall provide an amount of money for the same purpose. The Board shall develop a scale to be used to determine that amount, but the recipient must not be required to provide an amount less than 15 percent or more than 75 percent of the amount of the ~~[grant.]~~ *water project.* The scale must be based upon the average household income of the customers of the recipient, and provide adjustments for the demonstrated economic hardship of those customers, the existence of an imminent risk to public health and any other factor that the Board determines to be relevant.

Sec. 5. ~~[NRS 349.984 is hereby amended to read as follows:~~

~~349.984 1. The Fund for Grants *and Loans* for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems is hereby created.~~

~~2. Except as otherwise provided by subsections 3 and 4 of NRS 349.982, the money in the Fund must be used only to make grants *or loans* in furtherance of the program.~~

~~3. All claims against the Fund must be paid as other claims against the State are paid.]~~ *(Deleted by amendment.)*

Sec. 6. ~~[NRS 349.987 is hereby amended to read as follows:~~

~~349.987 1. The provisions of NRS 349.150 to 349.364, inclusive, which are not inconsistent with the provisions of NRS 349.980 to 349.987, inclusive, apply to the bonds issued pursuant to NRS 349.986.~~

~~2. The provisions of NRS 349.935 to 349.956, inclusive, and 349.961 do not apply to the program or to any grants or *loans* made or bonds issued pursuant to NRS 349.986.]~~ *(Deleted by amendment.)*

Sec. 7. NRS 534.360 is hereby amended to read as follows:

534.360 1. There is hereby created in the State Treasury a fund to be designated as the Water Rights *and Resources* Technical Support Fund to be administered by the Board for Financing Water Projects.

2. The Water Rights *and Resources* Technical Support Fund is a continuing fund without reversion. Money in the Fund must be invested as the money in other funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. The Board for Financing Water Projects may accept gifts, grants and donations from any source for deposit in the Water Rights *and Resources* Technical Support Fund.

4. Except as otherwise provided in subsection 5, money in the Water Rights *and Resources* Technical Support Fund must be used by the Board for Financing Water Projects only to make grants to a local government to:

(a) Obtain and provide expert and technical assistance to gather data to protect its existing water rights; ~~[or]~~

(b) Fund projects to enhance or protect its existing water rights ~~[.]~~ *; or*

(c) Fund projects to enhance its water resource planning and management of information relating to water resources. In making its determination which local governments will receive grants pursuant to this paragraph, the Board shall give preference to a county whose population is less than 100,000 or any other local government whose population is less than 10,000.

5. Any grant of money from the Water Rights *and Resources* Technical Support Fund must not be used by a local government to pay for any assistance or projects as set forth in subsection 4 if the only purpose of the assistance or project is to obtain evidence, including, without limitation, technical evidence and oral testimony or to pay for expert witnesses or attorney's fees for or in anticipation of any administrative or judicial proceeding, including, without limitation, hearings before the State Engineer or in any state or federal court.

Sec. 8. ~~[NRS 540.051 is hereby amended to read as follows:~~

~~540.051 The Section shall:~~

~~1. Include in its planning:~~

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

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

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

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

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

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

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

~~(c) General advice relating to water planning.~~

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

~~(a) Whether the basin is designated;~~

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

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

~~(d) The availability of crop and pumpage inventories;~~

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

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

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

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

~~7. Promote water conservation by:~~

~~(a) Consulting with suppliers of water concerning:~~

~~(1) Community water conservation plans; and~~

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

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

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

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

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

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

Sec. 9. There is hereby appropriated from the State General Fund to the Water Rights and Resources Technical Support Fund created pursuant to NRS 534.360 *, as amended by section 7 of this act,* the sum of $1,000,000.

Sec. 10. This act becomes effective on July 1, 2007.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 279.

Bill read second time.

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

Amendment No. 196.

"SUMMARY— ~~[Provides express authority for]~~ *Makes various changes concerning contractors and* the State Contractors' Board . ~~[to collect and disseminate data and to conduct investigations.]~~ (BDR 54-624)"

"AN ACT relating to contractors; *revising certain duties and powers of the State Contractors' Board;* providing express authority for the ~~[State Contractors']~~ Board to collect and ~~[disseminate]~~ *maintain* data and to conduct investigations; *revising the procedures for applying for the issuance or renewal of a contractor's license; revising the term of a contractor's license from 1 year to 2 years in certain circumstances; revising certain fees and assessments to reflect such change in the term of a contractor's license; authorizing the Board to take certain actions against an unlicensed person who violates a provision governing contractors; providing a penalty;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that chapter 624 of NRS, which governs contractors, does not apply, under certain circumstances, to an owner of a complex containing less than five condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer who performs certain maintenance and repairs to the property which are valued at less than $500. (NRS 624.031) Section 1 of this bill expands this exemption to include any maintenance and repairs which are valued at less than $1,000.

Existing law requires the State Contractors' Board to establish an Investigations Office that includes a Special Investigations Unit and a Compliance Investigations Unit. (NRS 624.112) Section 2 of this bill eliminates the requirement to include those two specific units within the Investigations Office.

Existing law authorizes the Board to require criminal investigators who are employed by the Board to locate and identify certain persons who violate a provision of chapter 624 of NRS or any regulations adopted by the Board. (NRS 624.115) Section 3 of this bill authorizes the Board also to require compliance investigators who are employed by the Board to locate and identify such persons.

Existing law authorizes the ~~[State Contractors']~~ Board to undertake all functions and duties related to the administration of chapter 624 of NRS . ~~[, which governs contractors.]~~ (NRS 624.160) Section ~~[1]~~ *4* of this bill provides express authority for the Board to collect and ~~[disseminate]~~ *maintain* data regarding *investigations and* complaints on contractors and to conduct investigations of contractors. ~~[Sections 2 and 3 of this bill provide that the express authority granted by section 1 is an exception to existing provisions providing for confidentiality of complaints and investigations.]~~

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit a written application to the Board that includes, without limitation, the names and addresses of any owners, partners, officers, directors, members and managerial personnel of the

applicant. (NRS 624.250) Section 5 of this bill revises this requirement for applicants that are corporations or limited-liability companies. Section 5 also requires the Board to require an applicant to pay the license fee and any applicable assessments before the Board issues a license to the applicant.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit to the Board proof of industrial insurance and insurance for occupational diseases, proof of self-insurance or a signed affidavit affirming that the applicant is not subject to the statutes governing industrial insurance and occupational insurance because of certain specified circumstances. (NRS 624.256) Section 6 of this bill provides that failure of such an applicant or licensee to file or maintain such insurance constitutes cause for the Board to take certain administrative actions against the person unless the person provides to the Board the affidavit discussed above.

Existing law requires an applicant for a contractor's license or a licensee to show such a degree of financial responsibility as the Board deems necessary for the safety and protection of the public. (NRS 624.260) Existing law also requires that the financial responsibility be determined by using certain standards and criteria set forth in statute. (NRS 624.263) Section 7 of this bill expands those standards and criteria and authorizes, rather than requires, these standards and criteria to be used in determining the financial responsibility of an applicant or licensee.

Section 9 of this bill revises the existing fee for a contractor's license from $450 annually to $900 biennially. (NRS 624.283)

Section 10 of this bill revises the existing term of a contractor's license from 1 year to 2 years and authorizes the Board to establish a system of staggered biennial renewals. Section 20 of this bill provides that the provisions of section 10 do not apply to an existing contractor's license until the first renewal date for the license that occurs after the effective date of this bill.

Existing law authorizes the Board or its designee to issue administrative citations and to take action against an applicant for a contractor's license or a licensee who commits an act which constitutes cause for disciplinary action. (NRS 624.341) Section 12 of this bill authorizes the Board or its designee to issue such citations and to take such action against any person who violates a provision of chapter 624 of NRS or any regulations adopted by the Board. Section 12 also specifies that any administrative fine ordered in the citation must not exceed $50,000 under certain circumstances. Further, section 12 provides that it is a misdemeanor for an unlicensed person to fail to comply with such a citation or order issued by the Board pursuant to NRS 624.341. Sections 13, 14 and 15 of this bill similarly amend existing law to reflect the expanded scope of the administrative citations and actions. (NRS 624.345, 624.351, 624.361)

Section 16 of this bill revises the existing assessments which are required to be paid by each residential contractor on an annual basis by doubling the

amounts of the assessments and requiring such assessments to be paid per biennium. (NRS 624.470)

Existing law authorizes the Board to impose an administrative fine upon an unlicensed person who engages in business as a contractor or submits a bid on a job in this State. (NRS 624.710) Section 17 of this bill further authorizes the Board to impose an administrative fine on a person who violates certain provisions governing advertising concerning contractors or certain provisions governing the ability of licensees to participate in joint ventures or other combinations. (NRS 624.720, 624.740)

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

Section 1. NRS 624.031 is hereby amended to read as follows:

624.031 The provisions of this chapter do not apply to:

1. Work performed exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State.

2. An officer of a court when acting within the scope of his office.

3. Work performed exclusively by a public utility operating pursuant to the regulations of the Public Utilities Commission of Nevada on construction, maintenance and development work incidental to its business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale or lease. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the Board for the exemption. The Board shall adopt regulations setting forth the requirements for granting the exemption.

5. ~~[An owner of a complex containing not more than four condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer, who performs]~~ *Any* work to repair or maintain ~~[that]~~ property the value of which is less than ~~[$500,]~~ *$1,000,* including labor and materials, unless:

(a) A building permit is required to perform the work;

(b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;

(c) The work is of a type performed by a contractor licensed in a classification prescribed by the Board that significantly affects the health, safety and welfare of members of the general public;

(d) The work is performed as a part of a larger project:

(1) The value of which is $500 or more; or

(2) For which contracts of less than $500 have been awarded to evade the provisions of this chapter; or

(e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of that person.

6. The sale or installation of any finished product, material or article of merchandise which is not fabricated into and does not become a permanent fixed part of the structure.

7. The construction, alteration, improvement or repair of personal property.

8. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and conducted within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

9. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his use or occupancy and not intended for sale or lease.

Sec. 2. *NRS 624.112 is hereby amended to read as follows:*

624.112 1. The Board shall:

(a) Establish an Investigations Office to enforce the provisions of this chapter. The Investigations Office must ~~[include a Special Investigations Unit consisting]~~ *consist* of criminal investigators and ~~[a Compliance Investigations Unit consisting of]~~ compliance investigators.

(b) Adopt regulations setting forth the qualifications required for investigators employed to carry out this section.

2. As used in this section, "criminal investigator" means a person authorized to perform the duties set forth in subsection 2 of NRS 624.115.

Sec. 3. *NRS 624.115 is hereby amended to read as follows:*

624.115 1. The Board may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

2. The Board may require criminal investigators who are employed by the Board pursuant to NRS 624.112 to:

(a) Conduct a background investigation of:

(1) A licensee or an applicant for a contractor's license; or

(2) An applicant for employment with the Board;

(b) Locate and identify persons who:

(1) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(2) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(3) Otherwise violate the provisions of this chapter or the regulations adopted pursuant to this chapter;

(c) Investigate any alleged occurrence of constructional fraud; and

(d) Issue a misdemeanor citation prepared manually or electronically pursuant to NRS 171.1773 to a person who violates a provision of this chapter that is punishable as a misdemeanor. A criminal investigator may

request any constable, sheriff or other peace officer to assist him in the issuance of such a citation.

3. The Board may require compliance investigators who are employed by the Board pursuant to NRS 624.112 to locate and identify persons who:

(a) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(b) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(c) Otherwise violate the provisions of this chapter or the regulations adopted pursuant thereto.

~~[Section 1.]~~ *Sec. 4.* NRS 624.160 is hereby amended to read as follows:

624.160 1. The Board is vested with all of the functions and duties relating to the administration of this chapter.

2. The Board shall:

(a) Carry out a program of education for customers of contractors.

(b) Maintain and make known a telephone number for the public to obtain information about self-protection from fraud in construction and other information concerning contractors and contracting.

(c) Collect and maintain records, reports and compilations of statistical data concerning investigations and complaints.

~~*[(d) Upon request, disclose and disseminate to a member of the public a compilation of statistical data regarding complaints on a specific contractor.]*~~

3. The Board may provide advisory opinions and take other actions that are necessary for the effective administration of this chapter and the regulations of the Board.

4. The Board may, on its own motion, and shall, upon receipt of a written complaint or upon receipt of information from a governmental agency, investigate the actions of any person acting in the capacity of a contractor, with or without a license.

Sec. 5. *NRS 624.250 is hereby amended to read as follows:*

624.250 1. To obtain or renew a license, an applicant must submit to the Board an application in writing containing:

(a) The statement that the applicant desires the issuance of a license under the terms of this chapter.

(b) The street address or other physical location of the applicant's place of business.

(c) The name of a person physically located in this State for service of process on the applicant.

(d) The street address or other physical location in this State and, if different, the mailing address, for service of process on the applicant.

(e) ~~[The]~~ *Except as otherwise provided in paragraphs (f) or (g), the* names and physical and mailing addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant.

(f) *If the applicant is a corporation, the names and physical and mailing addresses of the president, secretary, treasurer, any officers responsible for contracting activities in this State, any officers responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.*

(g) If the applicant is a limited-liability company, the names and physical and mailing addresses of any managers or members with managing authority, any managers or members responsible for contracting activities in this State, any managers or members responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.

(h) Any information requested by the Board to ascertain the background, financial responsibility, experience, knowledge and qualifications of the applicant.

~~[(g)]~~ *(i)* All information required to complete the application.

2. The application must be:

(a) Made on a form prescribed by the Board in accordance with the rules and regulations adopted by the Board.

(b) Accompanied by the *application* fee fixed by this chapter.

3. The Board shall include on an application form for the issuance or renewal of a license, a method for allowing an applicant to make a monetary contribution to the Construction Education Account created pursuant to NRS 624.580. The application form must state in a clear and conspicuous manner that a contribution to the Construction Education Account is voluntary and is in addition to any fees required for licensure. If the Board receives a contribution from an applicant, the Board shall deposit the contribution with the State Treasurer for credit to the Construction Education Account.

4. Before issuing a license to any applicant, the Board shall require the applicant to pay the license fee fixed by this chapter and, if applicable, any assessment required pursuant to NRS 624.470.

Sec. 6. NRS 624.256 is hereby amended to read as follows:

624.256 1. Before granting an original or renewal of a contractor's license to any applicant, the Board shall require that the applicant submit to the Board:

(a) Proof of industrial insurance and insurance for occupational diseases which covers his employees;

(b) A copy of his certificate of qualification as a self-insured employer which was issued by the Commissioner of Insurance;

(c) If the applicant is a member of an association of self-insured public or private employers, a copy of the certificate issued to the association by the Commissioner of Insurance; or

(d) An affidavit signed by the applicant affirming that he is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS because:

(1) He has no employees;

(2) He is not or does not intend to be a subcontractor for a principal contractor; and

(3) He has not or does not intend to submit a bid on a job for a principal contractor or subcontractor.

2. The Board shall notify the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420 whenever the Board learns that an applicant or holder of a contractor's license has engaged in business as or acted in the capacity of a contractor within this State without having obtained industrial insurance or insurance for occupational diseases in violation of the provisions of chapters 616A to 617, inclusive, of NRS.

3. Failure by an applicant or holder of a contractor's license to file or maintain in full force the required industrial insurance and insurance for occupational diseases constitutes cause for the Board to deny, revoke, suspend, refuse to renew or otherwise discipline the person, unless the person has complied with the provisions set forth in paragraph (d) of subsection 1.

Sec. 7. NRS 624.263 is hereby amended to read as follows:

624.263 1. The financial responsibility of a licensee or an applicant for a contractor's license must be established independently of and without reliance on any assets or guarantees of any owners or managing officers of the licensee or applicant, but the financial responsibility of any owners or managing officers of the licensee or applicant may be inquired into and considered as a criterion in determining the financial responsibility of the licensee or applicant.

2. The financial responsibility of an applicant for a contractor's license or of a licensed contractor ~~[must]~~ *may* be determined by using the following standards and criteria in connection with each applicant or contractor and each associate or partner thereof:

(a) ~~[Net]~~ *Amount of net* worth.

(b) Amount of liquid assets.

(c) *Amount of current assets.*

(d) Amount of current liabilities.

(e) Amount of working capital.

(f) Ratio of current assets to current liabilities.

(g) Fulfillment of bonding requirements pursuant to NRS 624.270.

(h) Prior payment and credit records.

~~[(d)]~~ *(i)* Previous business experience.

~~[(e)]~~ *(j)* Prior and pending lawsuits.

~~[(f)]~~ *(k)* Prior and pending liens.

~~[(g)]~~ *(l)* Adverse judgments.

~~[(h)]~~ *(m)* Conviction of a felony or crime involving moral turpitude.

~~[(i)]~~ *(n)* Prior suspension or revocation of a contractor's license in Nevada or elsewhere.

~~[(j)]~~ *(o)* An adjudication of bankruptcy or any other proceeding under the federal bankruptcy laws, including:

(1) A composition, arrangement or reorganization proceeding;

(2) The appointment of a receiver of the property of the applicant or contractor or any officer, director, associate or partner thereof under the laws of this State or the United States; or

(3) The making of an assignment for the benefit of creditors.

~~[(k)]~~ *(p)* Form of business organization, corporate or otherwise.

~~[(l)]~~ *(q)* Information obtained from confidential financial references and credit reports.

~~[(m)]~~ *(r)* Reputation for honesty and integrity of the applicant or contractor or any officer, director, associate or partner thereof.

3. A licensed contractor shall, as soon as it is reasonably practicable, notify the Board in writing upon the filing of a petition or application relating to the contractor that initiates any proceeding, appointment or assignment set forth in paragraph ~~[(j)]~~ *(o)* of subsection 2. The written notice must be accompanied by:

(a) A copy of the petition or application filed with the court; and

(b) A copy of any order of the court which is relevant to the financial responsibility of the contractor, including any order appointing a trustee, receiver or assignee.

4. Before issuing a license to an applicant who will engage in residential construction or renewing the license of a contractor who engages in residential construction, the Board may require the applicant or licensee to establish his financial responsibility by submitting to the Board:

(a) A financial statement that is:

(1) Prepared by a certified public accountant; or

(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and

(b) A statement setting forth the number of building permits issued to and construction projects completed by the licensee during the immediately preceding year and any other information required by the Board. The statement submitted pursuant to this paragraph must be provided on a form approved by the Board.

5. In addition to the requirements set forth in subsection 4, the Board may require a licensee to establish his financial responsibility at any time.

6. An applicant for an initial contractor's license or a licensee applying for the renewal of a contractor's license has the burden of demonstrating his financial responsibility to the Board, if the Board requests him to do so.

~~[Sec. 2.]~~ *Sec. 8.* ~~[NRS 624.265 is hereby amended to read as follows:~~

~~624.265 1. An applicant for a contractor's license or a licensed contractor and each officer, director, partner and associate thereof must possess good character. Lack of character may be established by showing that the applicant or licensed contractor, or any officer, director, partner or associate thereof, has:~~

~~(a) Committed any act which would be grounds for the denial, suspension or revocation of a contractor's license;~~

~~(b) A bad reputation for honesty and integrity;~~

~~(c) Entered a plea of nolo contendere or guilty to, been found guilty of or been convicted, in this State or any other jurisdiction, of a crime arising out of, in connection with or related to the activities of such person in such a manner as to demonstrate his unfitness to act as a contractor, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal; or~~

~~(d) Had a license revoked or suspended for reasons that would preclude the granting or renewal of a license for which the application has been made.~~

~~2. Upon the request of the Board, an applicant for a contractor's license, and any officer, director, partner or associate of the applicant, must submit to the Board completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of his fingerprints to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation. The fingerprint cards and authorization form submitted must be those that are provided to the applicant by the Board. The applicant's fingerprints may be taken by an agent of the Board or an agency of law enforcement.~~

~~3. [The]~~ *Except as otherwise provided in NRS 624.160, the* ~~Board shall keep the results of the investigation confidential and not subject to inspection by the general public.~~

~~4. The Board shall establish by regulation the fee for processing the fingerprints to be paid by the applicant. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.~~

~~5. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:~~

~~(a) Arrests;~~

~~(b) Guilty pleas;~~

~~(c) Sentencing;~~

~~(d) Probation;~~

~~(e) Parole;~~

~~(f) Bail;~~

~~(g) Complaints; and~~

~~(h) Final dispositions,~~

~~for the investigation of a licensee or an applicant for a contractor's license.]~~ *(Deleted by amendment.)*

Sec. 9. *NRS 624.280 is hereby amended to read as follows:*

624.280 The Board may adopt regulations fixing the fee for an application, the fee for an examination and the ~~[annual]~~ fee for a license to be

paid by applicants and licensees. Except as otherwise provided in NRS 624.281, the fee for:

1. An application must not exceed $550.

2. A license must not exceed ~~[$450 annually.]~~ *$900 biennially.*

3. An examination must not exceed $300.

Sec. 10. *NRS 624.283 is hereby amended to read as follows:*

624.283 1. Each license issued under the provisions of this chapter expires ~~[1 year]~~ *2 years* after the date on which it is issued, except that the Board may by regulation prescribe shorter or longer periods and prorated fees to establish a system of staggered *biennial* renewals. Any license which is not renewed on or before the date for renewal is automatically suspended.

2. A license may be renewed by submitting to the Board:

(a) An application for renewal;

(b) The fee for renewal fixed by the Board;

(c) Any assessment required pursuant to NRS 624.470 if the holder of the license is a residential contractor as defined in NRS 624.450; and

(d) All information required to complete the renewal.

3. The Board may require a licensee to demonstrate his financial responsibility at any time through the submission of:

(a) A financial statement that is:

(1) Prepared by an independent certified public accountant; or

(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and

(b) If the licensee performs residential construction, such additional documentation as the Board deems appropriate.

4. If a license is automatically suspended pursuant to subsection 1, the licensee may have his license reinstated upon filing an application for renewal within 6 months after the date of suspension and paying, in addition to the fee for renewal, a fee for reinstatement fixed by the Board, if he is otherwise in good standing and there are no complaints pending against him. If he is otherwise not in good standing or there is a complaint pending, the Board shall require him to provide a current financial statement prepared by an independent certified public accountant or establish other conditions for reinstatement. An application for renewal must be accompanied by all information required to complete the renewal. A license which is not reinstated within 6 months after it is automatically suspended may be cancelled by the Board, and a new license may be issued only upon application for an original contractor's license.

~~[Sec. 3]~~ *Sec. 11.* ~~[NRS 624.327 is hereby amended to read as follows:~~

~~624.327 1. Except as otherwise provided in this section [,] *and NRS 624.160*, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of the investigation conducted to determine whether to initiate disciplinary action are confidential.~~

~~2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.]~~ *(Deleted by amendment.)*

Sec. 12. *NRS 624.341 is hereby amended to read as follows:*

624.341 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a ~~[licensee or applicant for a contractor's license]~~ *person* has committed an act which constitutes a ~~[cause for disciplinary action pursuant to NRS 624.300,]~~ *violation of this chapter or the regulations of the Board*, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the ~~[licensee or applicant.]~~ *person.* A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action, at the licensee's or applicant's cost;]~~ *violation of this chapter or the regulations of the Board, at the person's cost;*

(b) An order to pay an administrative fine ~~[;]~~ *not to exceed $50,000, except as otherwise provided in subsection 1 of NRS 624.300;* and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate the complaint.

2. If a written citation issued pursuant to subsection 1 includes an order to take action to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action,]~~ *violation of this chapter or the regulations of the Board*, the citation must state the time permitted for compliance, which must be not less than 15 business days after the date the ~~[licensee or applicant]~~ *person* receives the citation, and specifically describe the action required to be taken.

3. The sanctions authorized by subsection 1 are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

4. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 13. *NRS 624.345 is hereby amended to read as follows:*

624.345 1. A ~~[licensee or applicant for a contractor's license]~~ *person* who is issued a written citation pursuant to NRS 624.341 may contest the citation within 15 business days after the date on which the citation is served on the ~~[licensee or applicant.]~~ *person.*

2. A ~~[licensee or applicant for a contractor's license]~~ *person* may contest, without limitation:

(a) The facts forming the basis for the determination that the ~~[licensee or applicant]~~ *person* has committed an act which constitutes a ~~[cause for disciplinary action;]~~ *violation of this chapter or the regulations of the Board;*

(b) The time allowed to take any corrective action ordered;

(c) The amount of any administrative fine ordered;

(d) The amount of any order to reimburse the Board for the expenses incurred to investigate the ~~[licensee or applicant;]~~ *person;* and

(e) Whether any corrective action described in the citation is reasonable.

3. If a ~~[licensee or applicant for a contractor's license]~~ *person* does not contest a citation issued pursuant to NRS 624.341 within 15 business days after the date on which the citation is served on the ~~[licensee or applicant,]~~ *person,* or on or before such later date as specified by the Board pursuant to subsection 4, the citation shall be deemed a final order of the Board and not subject to review by any court or agency.

4. The Board may, for good cause shown, extend the time to contest a citation issued pursuant to NRS 624.341.

5. For the purposes of this section, a citation shall be deemed to have been served on a ~~[licensee or an applicant]~~ *person* on:

(a) The date on which the citation is personally delivered to the ~~[licensee or applicant;]~~ *person;* or

(b) If the citation is mailed, the date on which the citation is mailed by certified mail to the last known business or residential address of the ~~[licensee or applicant.]~~ *person.*

Sec. 14. *NRS 624.351 is hereby amended to read as follows:*

624.351 If a ~~[licensee or applicant for a contractor's license]~~ *person* contests a citation issued pursuant to NRS 624.341 or order to correct a violation of the provisions of this chapter within 15 business days after he receives the citation or order, or on or before such later date as specified by the Board pursuant to subsection 4 of NRS 624.345, the Board shall hold a hearing pursuant to NRS 624.291.

Sec. 15. *NRS 624.361 is hereby amended to read as follows:*

624.361 The Board shall adopt regulations concerning the:

1. Form of a written citation issued pursuant to NRS 624.341;

2. Time required for a ~~[licensee or applicant for a license]~~ *person* to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action]~~ *violation of this chapter or the regulations of the Board* if he is so ordered pursuant to NRS 624.341; and

3. Imposition of an administrative fine pursuant to the provisions of this chapter. The Board ~~[must]~~ *shall* consider:

(a) The gravity of the violation;

(b) The good faith of the ~~[licensee;]~~ *person;* and

(c) Any history of previous violations of the provisions of this chapter by the ~~[licensee.]~~ *person.*

Sec. 16. *NRS 624.470 is hereby amended to read as follows:*

624.470 1. Except as otherwise provided in subsection 3, in addition to the ~~[annual]~~ fee for a license required pursuant to NRS 624.280, a residential contractor shall pay to the Board an ~~[annual]~~ assessment not to exceed the following amount, if the monetary limit on his license is:

Not more than $1,000,000 ~~[$100]~~ *$200 per biennium*
More than $1,000,000 but limited ~~[250]~~ *500 per biennium*
Unlimited ~~[500]~~ *1,000 per biennium*

2. The Board shall administer and account separately for the money received from the ~~[annual]~~ assessments collected pursuant to subsection 1. The Board may refer to the money in the account as the "Recovery Fund."

3. The Board shall reduce the amount of the assessments collected pursuant to subsection 1 when the balance in the account reaches 150 percent of the largest balance in the account during the previous fiscal year.

4. Except as otherwise provided in NRS 624.540, the money in the account must be used to pay claims made by owners who are damaged by the failure of a residential contractor to perform qualified services adequately, as provided in NRS 624.400 to 624.560, inclusive.

Sec. 17. *NRS 624.710 is hereby amended to read as follows:*

624.710 1. If any person violates the provisions of subsection 1 of NRS 624.700, *subsections 1, 2 or 3 of NRS 624.720 or NRS 624.740*, the Board may impose for each violation an administrative fine in an amount that is not less than $1,000 and not more than $50,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the person; and

(c) Any history of previous violations of the provisions of this chapter *or the regulations of the Board* committed by the person.

3. An administrative fine imposed pursuant to this section is in addition to any other penalty imposed pursuant to this chapter.

4. If the administrative fine and any interest imposed pursuant to NRS 624.300 is not paid when due, the fine and interest, if any, must be recovered in a civil action brought by the Attorney General on behalf of the Board.

5. All administrative fines and interest collected pursuant to this section must be deposited with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 18. *NRS 338.1389 is hereby amended to read as follows:*

338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds $250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a responsive and responsible contractor who:

(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382; and

(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits his bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,

➥ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without

limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the ~~[annual]~~ renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit

a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to

receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed the best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 19. *NRS 338.147 is hereby amended to read as follows:*

338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds $250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative; and

(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,

➥ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the ~~[annual]~~ renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required

pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit
a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed a best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.

14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to

paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

Sec. 20. *The amendatory provisions of section 10 of this act do not apply to a license issued pursuant to chapter 624 of NRS before the effective date of this act until the first renewal date for the license after the effective date of this act.*

~~[Sec. 4.]~~ *Sec. 21.* This act becomes effective upon passage and approval.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 313.

Bill read second time.

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

Amendment No. 320.

"SUMMARY— ~~[Revises provisions]~~ *Authorizes the boards of trustees of school districts to adopt a policy* relating to the enrollment of certain pupils in kindergarten in a public elementary school. (BDR 34-605)"

"AN ACT relating to education; authorizing *the board of trustees of a school district to adopt a policy for the* admission to kindergarten of certain pupils who are not the required minimum age at the beginning of a school year; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a child may not enroll in kindergarten unless the child is 5 years of age on or before September 30 of the school year in which the child is admitted. (NRS 392.040) This bill authorizes the ~~[principal]~~ *board of trustees* of a school *district* to ~~[provide permission]~~ *adopt a policy* for a child to enroll in kindergarten if the child will be 5 years of age on or before December 31 of the school year.

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

Section 1. NRS 392.040 is hereby amended to read as follows:

392.040 1. Except as otherwise provided by law, each parent, custodial parent, guardian or other person in the State of Nevada having control or

charge of any child between the ages of 7 and 17 years shall send the child to a public school during all the time the public school is in session in the school district in which the child resides.

2. A child who is 5 years of age on or before *:*

(a) September 30 of a school year may be admitted to kindergarten at the beginning of that school year ~~[.]~~ *; or*

(b) December 31 but after September 30 of a school year may be admitted to kindergarten at the beginning of that school year if the ~~[principal of the school at which the pupil is zoned to attend provides permission for the child to be admitted, upon request of the parent or legal guardian of the child,]~~ child is approved for enrollment in accordance with a policy adopted pursuant to subsection 9,

➥ and his enrollment must be counted for purposes of apportionment. If a child is not 5 years of age on or before September 30 of a school year ~~[.]~~ *or if ~~[a principal does not provide permission for]~~ a child ~~[to enroll]~~ who is 5 years of age on or before December 31 of a school year ~~[.]~~ is not approved for enrollment pursuant to subsection 9,* the child must not be admitted to kindergarten.

3. Except as otherwise provided in subsection 4, a child who is 6 years of age on or before September 30 of a school year *or who is 6 years of age on or before December 31 of a school year and was admitted to kindergarten pursuant to paragraph (b) of subsection 2* must:

(a) If he has not completed kindergarten, be admitted to kindergarten at the beginning of that school year; or

(b) If he has completed kindergarten, be admitted to the first grade at the beginning of that school year,

➥ and his enrollment must be counted for purposes of apportionment. If a child is not 6 years of age on or before September 30 of a school year, the child must not be admitted to the first grade until the beginning of the school year following his sixth birthday ~~[.]~~ *unless the child was admitted to kindergarten pursuant to paragraph (b) of subsection 2 and he completed kindergarten.*

4. The parents, custodial parent, guardian or other person within the State of Nevada having control or charge of a child who is 6 years of age on or before September 30 of a school year may elect for the child not to attend kindergarten or the first grade during that year. The parents, custodial parent, guardian or other person who makes such an election shall file with the board of trustees of the appropriate school district a waiver in a form prescribed by the board.

5. Whenever a child who is 6 years of age is enrolled in a public school, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of the child shall send him to the public school during all the time the school is in session. If the board of trustees of a school district has adopted a policy prescribing a minimum number of days of attendance for pupils enrolled in kindergarten or first grade pursuant to

NRS 392.122, the school district shall provide to each parent and legal guardian of a pupil who elects to enroll his child in kindergarten or first grade a written document containing a copy of that policy and a copy of the policy of the school district concerning the withdrawal of pupils from kindergarten or first grade. Before the child's first day of attendance at a school, the parent or legal guardian shall sign a statement on a form provided by the school district acknowledging that he has read and understands the policy concerning attendance and the policy concerning withdrawal of pupils from kindergarten or first grade. The parent or legal guardian shall comply with the applicable requirements for attendance. This requirement for attendance does not apply to any child under the age of 7 years who has not yet been enrolled or has been formally withdrawn from enrollment in public school.

6. A child who is 7 years of age on or before September 30 of a school year *or who is 7 years of age on or before December 31 of a school year and was admitted to kindergarten pursuant to paragraph (b) of subsection 2* must:

(a) If he has completed kindergarten and the first grade, be admitted to the second grade.

(b) If he has completed kindergarten, be admitted to the first grade.

(c) If the parents, custodial parent, guardian or other person in the State of Nevada having control or charge of the child waived the child's attendance from kindergarten pursuant to subsection 4, undergo an assessment by the district pursuant to subsection 7 to determine whether the child is prepared developmentally to be admitted to the first grade. If the district determines that the child is prepared developmentally, he must be admitted to the first grade. If the district determines that the child is not so prepared, he must be admitted to kindergarten.

➥ The enrollment of any child pursuant to this subsection must be counted for apportionment purposes.

7. Each school district shall prepare and administer before the beginning of each school year a developmental screening test to a child:

(a) Who is 7 years of age on or before September 30 of the next school year; and

(b) Whose parents waived his attendance from kindergarten pursuant to subsection 4,

➥ to determine whether the child is prepared developmentally to be admitted to the first grade. The results of the test must be made available to the parents, custodial parent, guardian or other person within the State of Nevada having control or charge of the child.

8. A child who becomes a resident of this State after completing kindergarten or beginning first grade in another state in accordance with the laws of that state may be admitted to the grade he was attending or would be attending had he remained a resident of the other state regardless of his age, unless the board of trustees of the school district determines that the requirements of this section are being deliberately circumvented.

9. *The board of trustees of a school district may adopt a policy for the enrollment of children in kindergarten for those children who are 5 years of age on or before December 31 but after September 30 of a school year. The policy must:*

(a) Prescribe the procedure for the parent or legal guardian of a child to request that the child be approved for enrollment in kindergarten pursuant to the policy;

(b) Require an assessment of the child that is appropriate for determining whether the child is prepared adequately to attend kindergarten; and

(c) Set forth any other requirements or conditions deemed necessary by the board of trustees.

10. As used in this section, "kindergarten" includes:

(a) A kindergarten established by the board of trustees of a school district pursuant to NRS 388.060;

(b) A kindergarten established by the governing body of a charter school; and

(c) An authorized program of instruction for kindergarten offered in a child's home pursuant to NRS 388.060.

Sec. 2. This act becomes effective on July 1, 2007.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 329.

Bill read second time.

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

Amendment No. 425.

"SUMMARY—Prohibits ~~[certain activities relating to the transportation and possession of animals in motor vehicles.]~~ *a person from allowing a cat or dog to remain unattended in a motor vehicle under certain circumstances.* (BDR 50-950)"

"AN ACT relating to animals; prohibiting a person from allowing a cat or dog to remain unattended in a parked or standing motor vehicle in a manner that endangers the health or safety of the cat or dog; authorizing a peace officer to use force to remove a cat or dog from a motor vehicle under certain circumstances; ~~[prohibiting an operator of a motor vehicle from allowing an animal to ride upon or within a portion of the motor vehicle under certain circumstances; providing penalties;]~~ *providing a penalty;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person is prohibited from instigating, engaging in or in any way furthering an act of cruelty to an animal. (NRS 574.100) Such an act includes, without limitation, unjustifiably injuring or maiming an animal

or carrying an animal in a vehicle in a cruel or inhuman manner. (NRS 574.100, 574.190)

Section 2 of this bill makes it a misdemeanor for a person to allow a cat or dog to remain unattended in a parked or standing car during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog. Section 2 authorizes a peace officer and certain other persons to use any force that is reasonable and necessary under the circumstances to remove the cat or dog from the motor vehicle. ~~[Section 3 of this bill makes it a misdemeanor for an operator of a motor vehicle to allow an animal to ride upon or within any portion of the motor vehicle that is primarily designed or intended for carrying goods or cargo unless that portion of the motor vehicle is entirely closed or equipped with appropriate racks or the animal is tethered or caged safely in that portion of the motor vehicle.]~~ Section 5 of this bill provides that the existing general exemptions from the provisions of chapter 574 of NRS also apply to the activities specified in ~~[sections 2 and 3]~~ *section 2* of this bill. Those exemptions include, without limitation, the handling, housing and transporting of livestock or farm animals.

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

Section 1. ~~[Chapter 574 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.]~~ *(Deleted by amendment.)*

Sec. 2. *Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. Except as otherwise provided in subsection 3, a person shall not allow a cat or dog to remain unattended in a parked or standing motor vehicle during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog.

2. Any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040;

(c) Animal control officer;

(d) Governmental officer or employee whose primary duty is to ensure public safety;

(e) Employee or volunteer of any organized fire department; or

(f) Member of a search and rescue organization in this State that is under the direct supervision of a sheriff,

➥ *may use any force that is reasonable and necessary under the circumstances to remove from a motor vehicle a cat or dog that is allowed to remain in the motor vehicle in violation of subsection 1.*

3. The provisions of subsection 1 do not apply to:

(a) A police animal or an animal that is used by ~~[a]~~ :

(1) A federal law enforcement agency to assist the agency in carrying out the duties of the agency; or

(2) A search and rescue organization specified in paragraph (f) of subsection 2 to assist the organization in carrying out the activities of the organization;

(b) A dog that is under the possession or control of:

(1) An animal control officer; or

(2) A first responder during an emergency; or

(c) A dog that is transported or used for hunting a species of game mammal:

(1) During the season for hunting that species of game mammal; and

(2) By a person who is the holder of a license or tag to hunt that species of game mammal during that season.

4. A cat or dog that is removed from a motor vehicle pursuant to subsection 2 shall be deemed to be an animal being treated cruelly for the purposes of NRS 574.055. The person who removed the cat or dog may take any action relating to the cat or dog specified in that section and is entitled to any lien or immunity from liability that is applicable pursuant to that section.

5. A person who violates a provision of subsection 1 is guilty of a misdemeanor.

Sec. 3. ~~*[1. Except as otherwise provided in subsection 2, an operator of a motor vehicle shall not allow an animal to ride upon or within any portion of the motor vehicle which is primarily designed or intended for carrying goods or other cargo or which is otherwise not designed or intended for the use of passengers, including, without limitation, the bed of a pickup truck, unless:*~~

~~*(a) That portion of the motor vehicle is entirely enclosed or is equipped with side and tail racks that are at least 46 inches in height and extend vertically from the floor of that portion of the motor vehicle; or*~~

~~*(b) The animal is tethered or caged in a manner that prevents the animal from jumping, falling or being thrown or hung from the motor vehicle.*~~

~~*2. The provisions of subsection 1 do not apply to:*~~

~~*(a) A police animal or an animal that is used by a federal law enforcement agency to assist the agency in carrying out the duties of the agency;*~~

~~*(b) A dog that is under the possession or control of:*~~

~~*(1) An animal control officer; or*~~

~~*(2) A first responder during an emergency; or*~~

~~*(c) A dog that is transported or used for hunting a species of game mammal:*~~

~~*(1) During the season for hunting that species of game mammal; and*~~

~~*(2) By a person who is the holder of a license or tag to hunt that species of game mammal during that season.*~~

~~*3. An operator of a motor vehicle who violates a provision of subsection 1 is guilty of a misdemeanor.]*~~ *(Deleted by amendment.)*

Sec. 4. NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive ~~[:]~~ *, and ~~[sections 2 and 3]~~ section 2 of this act:*

1. "Animal" does not include the human race, but includes every other living creature.

2. *"First responder" means a person who has successfully completed the national standard course for first responders.*

3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his duties as a peace officer.

~~[3.]~~ *4.* "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 5. NRS 574.200 is hereby amended to read as follows:

574.200 The provisions of NRS 574.050 to 574.510, inclusive, *and ~~[sections 2 and 3]~~ section 2 of this act* do not:

1. Interfere with any of the fish and game laws contained in title 45 of NRS or any laws for the destruction of certain birds.

2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.

3. Interfere with the right to kill all animals and fowl used for food.

4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this State.

5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.

6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senators Rhoads and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 356.

Bill read second time.

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

Amendment No. 340.

"SUMMARY—Revises provisions relating to the protection of children from abuse and neglect. (BDR 38-1059)"

"AN ACT relating to the protection of children; revising the ~~[standard used]~~ *process* for determining whether *action must be taken to ensure the safety of* a child ~~[may be]~~ *who has been* placed in protective custody ~~[;]~~

without the consent of the person responsible for the child's welfare; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the placement of a child in protective custody without the consent of the person responsible for the child's welfare. (NRS 432B.390) Section ~~[2]~~ *1* of this bill ~~[revises the standard used to determine whether a child may be placed in protective custody without the consent of the person responsible for his welfare from reasonable cause to believe that immediate action is necessary to protect the child from injury, abuse or neglect to]~~ *provides that if a child is placed in protective custody pursuant to NRS 432B.390, the agency which provides child welfare services must, within 24 hours, conduct an assessment to determine if there is* reasonable cause to believe that the child is in imminent ~~[danger]~~ *risk* of serious harm. *If it is determined that the child is in imminent risk of serious harm, appropriate action must be taken to ensure the safety of the child. If it is determined that the child is not in imminent risk of serious harm, the child must be returned to the person responsible for the child's welfare and the person may be referred for welfare services available within the community.*

Section ~~[1]~~ *2* of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations establishing reasonable and uniform standards for determining *whether immediate action is necessary to protect a child from injury, abuse or neglect and* whether a child is in imminent ~~[danger]~~ *risk* of serious harm. ~~[The regulations apply to any person who is authorized to place a child in protective custody, and the Division is required to ensure that such persons are provided with a copy of the regulations.]~~ (NRS 432B.190)

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, within 24 hours after the placement of a child in protective custody pursuant to paragraph (a) of subsection 1 of NRS 432B.390, a designee of an agency which provides child welfare services shall conduct an assessment and determine whether the child is in imminent risk of serious harm. If it is determined that the child:

(a) Is not in imminent risk of serious harm:

(1) The child must be returned to the person responsible for the child's welfare; and

(2) The person responsible for the child's welfare may be referred to a family resource center for the coordination of services provided pursuant to NRS 430A.160 or any other public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children.

(b) Is in imminent risk of serious harm, the agency shall take appropriate action to ensure the safety of the child.

2. If the designee of an agency which provides welfare services refers the person responsible for the child's welfare pursuant to paragraph (a) of subsection 1, the person responsible for the child's welfare must, within a reasonable amount of time, provide proof that the person participated in the services for which the person was referred. If the person responsible for the child's welfare fails to provide such proof of participation, the designee of an agency which provides welfare services may deem the child in imminent risk of serious harm for purposes of this section and the agency may immediately take appropriate action to ensure the safety of the child.

~~[Section 1.]~~ *Sec. 2.* NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

(a) Child welfare services provided in this State;

(b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;

(c) The development of local councils involving public and private organizations;

(d) Reports of abuse or neglect, records of these reports and the response to these reports;

(e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;

(f) The management and assessment of reported cases of abuse or neglect;

(g) The protection of the legal rights of parents and children;

(h) Emergency shelter for a child;

(i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) Evaluating the development and contents of a plan submitted for approval pursuant to NRS 432B.395;

(k) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and

(II) Persons who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, during all stages of the proceeding; and

(l) Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child . ~~[; and]~~

2. *Regulations, which are applicable to any person who is authorized to place a child in protective custody without the consent of the person responsible for the child's welfare, setting forth reasonable and uniform standards for establishing whether immediate action is necessary to protect the child from injury, abuse or neglect for the purposes of determining whether to place the child into protective custody pursuant to NRS 432B.390. Such standards must consider:*

(a) The availability of treatment and services to help prevent further abuse or neglect and to improve the environment of the child;

(b) The potential harm to the child in remaining in his home;

(c) The potential harm to the child if removed from his home;

(d) The nature and extent of existing or previous injuries, abuse or neglect and any evidence thereof; and

(e) Other relevant factors.

➥ *The Division of Child and Family Services shall ensure that the appropriate persons or entities to whom the regulations adopted pursuant to this subsection apply are provided with a copy of such regulations.*

3. Regulations, which are applicable to any person who is responsible for an assessment conducted pursuant to section 1 of this act, setting forth reasonable and uniform standards for conducting the assessment and establishing whether a child is in imminent ~~[danger]~~ risk of serious harm for purposes of determining whether ~~[to place]~~ the child ~~[into]~~ must remain in protective custody pursuant to ~~[NRS 432B.390.]~~ section 1 of this act or other appropriate action to ensure the safety of the child. Such standards must consider:

(a) The availability of treatment and services to help prevent further abuse or neglect and to improve the environment of the child;

(b) The potential harm to the child in remaining in his home;

(c) The potential harm to the child if removed from his home;

(d) The nature and extent of existing or previous injuries, abuse or neglect and any evidence thereof; ~~[and]~~

(e) The age and vulnerability of the child, including, without limitation, if the child is identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure;

(f) If the child was returned to the person responsible for the child's welfare pursuant to paragraph (a) of subsection 1 of section 1 of this act, whether the person responsible for the child's welfare participated in the services for which the person was referred; and

(g) Other relevant factors.

➥ *The Division of Child and Family Services shall ensure that the appropriate persons or entities to whom the regulations adopted pursuant to this subsection apply are provided with a copy of such regulations.*

~~[3.]~~ *4.* Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive ~~[.]~~ *, and section 1 of this act.*

~~[Sec. 2.]~~ *Sec. 3.* NRS 432B.390 is hereby amended to read as follows:

432B.390 1. An agent or officer of a law enforcement agency, an officer of the local juvenile probation department or the local department of juvenile services, or a designee of an agency which provides child welfare services:

(a) May place a child in protective custody without the consent of the person responsible for the child's welfare if he has reasonable cause to believe that immediate action is necessary to protect the child from injury, abuse or neglect. ~~[the child is in imminent danger of serious harm.]~~ *A designee of an agency which provides child welfare services shall commence an assessment pursuant to section 1 of this act within 24 hours after the placement of the child in protective custody.*

(b) Shall place a child in protective custody upon the death of a parent of the child, without the consent of the person responsible for the welfare of the child, if the agent, officer or designee has reasonable cause to believe that the death of the parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018.

2. When an agency which provides child welfare services receives a report pursuant to subsection 2 of NRS 432B.630, a designee of the agency which provides child welfare services shall immediately place the child in protective custody ~~[.]~~ *and commence an assessment pursuant to section 1 of this act within 24 hours after the placement of the child in protective custody.*

3. If there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, a protective custody hearing must be held pursuant to NRS 432B.470, whether the child was placed in protective custody or with a relative. If an agency other than an agency which provides child welfare services becomes aware that there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, that agency shall immediately notify the agency which provides child welfare services and a protective custody hearing must be scheduled.

4. An agency which provides child welfare services shall request the assistance of a law enforcement agency in the removal of a child if the agency has reasonable cause to believe that the child or the person placing the child in protective custody may be threatened with harm.

5. Before taking a child for placement in protective custody, the person taking the child shall show his identification to any person who is responsible for the child and is present at the time the child is taken. If a person who is responsible for the child is not present at the time the child is taken, the person taking the child shall show his identification to any other person upon request. The identification required by this subsection must be a single card that contains a photograph of the person taking the child and identifies him as a person authorized pursuant to this section to place a child in protective custody.

6. A child placed in protective custody pending an investigation and a hearing held pursuant to NRS 432B.470 must be placed in a hospital, if the child needs hospitalization, or in a shelter, which may include a foster home or other home or facility which provides care for those children, but the child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.

7. A person placing a child in protective custody pursuant to subsection 1 shall:

(a) Immediately take steps to protect all other children remaining in the home or facility, if necessary;

(b) Immediately make a reasonable effort to inform the person responsible for the child's welfare that the child has been placed in protective custody;

(c) Give preference in placement of the child to any person related within the third degree of consanguinity to the child who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State; and

(d) As soon as practicable, inform the agency which provides child welfare services and the appropriate law enforcement agency.

8. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 359.

Bill read second time.

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

Amendment No. 403.

"SUMMARY—Revises provisions governing claims made under policies of insurance for motor vehicles. (BDR 57-1135)"

"AN ACT relating to insurance; revising provisions governing written authorizations to receive medical reports, records and bills relating to claims under a policy of motor vehicle insurance; *prohibiting certain demands for payment;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that an insurer against whom a claim for damages is asserted under a policy of motor vehicle insurance must be provided with the medical reports, records and bills of the claimant which relate to the claim. (NRS 690B.042) Existing law allows the claimant to fulfill this requirement by providing to the insurer a written authorization which authorizes the insurer to obtain the medical reports, records and bills directly from the providers of health care. (NRS 690B.042) This bill provides that such a written authorization must include the name and address of every provider of health care who has medical reports, records or bills relating to the claim. This bill also provides that ~~[the claimant may not commence an action concerning the claim during the 90 days immediately following the date the written authorization is provided to the insurer, and that if the applicable period of limitations for commencing the action expires during this 90-day period, the claimant may file the action within the 60 days immediately following the 90-day period.]~~ *a demand for payment must not require that payment be made less than 30 days after a written authorization is made or the medical reports, records and bills are delivered. Further, a demand for payment must not be made after the date which is 30 days before the expiration of the applicable period of limitations.*

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

Section 1. NRS 690B.042 is hereby amended to read as follows:

690B.042 1. Except as otherwise provided in subsection 2, any party against whom a claim is asserted for compensation or damages for personal injury under a policy of motor vehicle insurance covering a private passenger car may require any attorney representing the claimant to provide to the party and his insurer or attorney, not more than once every 90 days, all medical reports, records and bills concerning the claim.

2. In lieu of providing medical reports, records and bills pursuant to subsection 1, the claimant or any attorney representing the claimant may provide to the party, his insurer or his attorney a written authorization to receive the reports, records and bills from the provider of health care. *The written authorization must include* ~~*[, without limitation,]*~~ *the name and address of all providers of health care that have any medical reports, records and bills concerning the claim.*

3. If the claimant or ~~*[his attorney provides a written authorization pursuant to subsection 2, the claimant or his attorney may not commence an action concerning the claim during the 90 days immediately following the*~~

~~*date on which the written authorization is provided to the party, his insurer or his attorney. If the applicable period of limitations for commencing an action concerning the claim expires during the 90-day period, the claimant or his attorney may commence a civil action concerning the claim within the 60 days immediately following the 90-day period.]*~~ *any attorney representing the claimant submits to the party, his insurer or his attorney a demand for payment, the demand for payment must not demand that payment be made less than 30 days after:*

(a) The date of the first delivery of documents pursuant to subsection 1; or

(b) The date the claimant or his attorney provides a written authorization pursuant to subsection 2.

4. A demand for payment described in subsection 3 may not be submitted after the date which is 30 days before the expiration of the applicable period of limitations for commencing an action concerning the claim.

5. At the written request of the claimant or his attorney, copies of all reports, records and bills obtained ~~[pursuant to the]~~ *through a written* authorization *pursuant to subsection 2* must be provided to the claimant or his attorney within 30 days after the date they are received. If the claimant or his attorney makes a written request for the reports, records and bills, the claimant or his attorney shall pay for the reasonable costs of copying the reports, records and bills.

~~[3.]~~ ~~*[5.]*~~ *6.* Upon receipt of any photocopies of medical reports, records and bills, or a written authorization pursuant to subsection 2, the insurer who issued the policy specified in subsection 1 shall, upon request, immediately disclose to the insured or the claimant all pertinent facts or provisions of the policy relating to any coverage at issue.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 367.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 313.

"SUMMARY—Makes various changes concerning administrative regulations. (BDR 18-129)"

"AN ACT relating to administrative regulations; requiring the Legislative Commission and the subcommittee to review regulations to provide certain notice before holding meetings to review regulations; requiring the notice of intent to act upon a permanent regulation to include *a statement explaining how to obtain* the approved or revised text of the regulation that is prepared by the Legislative Counsel; prohibiting an agency from holding a public hearing on a proposed regulation on the same day that the agency holds the

workshop; revising the procedure for the review of temporary regulations; making various additional changes relating to administrative regulations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prescribes a procedure for the review of adopted regulations and certain temporary regulations by the Legislative Commission or the subcommittee to review regulations for conformity with statutory authority and legislative intent. (NRS 233B.0633, 233B.067, 233B.0675) Section 1 of this bill requires the Legislative Commission or the subcommittee to review regulations, as applicable, to give written notice of at least 3 working days before holding a meeting to review regulations. The notice must include a list of the regulations that will be reviewed and an explanation of how a person may obtain a copy of such a regulation. Section 1 also requires the Legislative Counsel Bureau to post on its website a list of the regulations that will be reviewed at the meeting. Section 7 of this bill revises the procedure for review of temporary regulations so that it is identical to the procedure for review prescribed for adopted regulations. (NRS 233B.0633) Sections 10 and 11 of this bill also revise the circumstances under which the Legislative Counsel is required to provide a statement of the reasons for an objection to a regulation. (NRS 233B.067, 233B.0675) Section 9 of this bill removes a provision that conflicts with the procedure for reviewing regulations. (NRS 233B.0665)

Existing law requires an agency to give notice of intent to act upon a permanent regulation at least 30 days before its intended action and prescribes the contents of the notice. (NRS 233B.060, 233B.0603) Section 3 of this bill requires that the notice of intent include *a statement explaining how to obtain* the text of the regulation as prepared by the Legislative Counsel. In addition, section 6 of this bill revises the deadline by which an agency is required to deliver a copy of the proposed regulation or amendment to the Legislative Counsel for approval or revision of the text from the same time at which it gives notice of its intent to adopt, amend or repeal the regulation to at least 30 days before the agency wishes to give such notice. (NRS 233B.063) ~~[Section 8 of this bill also prohibits an agency from giving notice of intent to act upon a regulation until it has received the approved or revised text of the regulation from the Legislative Counsel. (NRS 233B.064)]~~

Section 5 of this bill prohibits an agency from holding a public hearing on a proposed regulation on the same day that it holds the workshop for that regulation. (NRS 233B.061)

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

Section 1. Chapter 233B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before holding a meeting to review temporary regulations pursuant to NRS 233B.0633 or adopted regulations pursuant to NRS 233B.067 or 233B.0675, the Legislative Commission or the subcommittee to review

regulations appointed pursuant to subsection 6 of NRS 233B.067, as applicable, shall provide written notice of the meeting at least 3 working days before the meeting. The notice must include, without limitation:

(a) A list of the regulations that the Legislative Commission or the subcommittee to review regulations will review at the meeting; and

(b) An explanation of the manner in which a person may obtain a copy of a regulation that the Legislative Commission or subcommittee to review regulations will review at the meeting.

2. If the Legislative Counsel Bureau maintains a website on the Internet or its successor, the Legislative Counsel Bureau shall, at least 3 working days before the Legislative Commission or the subcommittee to review regulations holds a meeting to review temporary regulations pursuant to NRS 233B.0633 or adopted regulations pursuant to NRS 233B.067 or 233B.0675, post on its website a list of the regulations that the Legislative Commission or the subcommittee to review regulations will review at the meeting, unless the Legislative Counsel Bureau is unable to do so because of technical problems relating to the operation or maintenance of its website.

Sec. 2. NRS 233B.060 is hereby amended to read as follows:

233B.060 1. Except as otherwise provided in subsection 2 and ~~[in]~~ NRS 233B.061, before adopting, amending or repealing ~~[any]~~ *:*

(a) A permanent ~~[or temporary]~~ regulation, the agency must , *30 days or more after delivering a copy of the proposed regulation to the Legislative Counsel, or after* ~~[receipt of]~~ *receiving the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063,* give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

(b) A temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation is subject to review by the Legislative Commission ~~[.]~~ *or the subcommittee to review regulations appointed pursuant to subsection 6 of NRS 233B.067.*

3. If the Public Utilities Commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation is subject to review by the Legislative Commission ~~[.]~~ *or the subcommittee to review regulations.*

Sec. 3. NRS 233B.0603 is hereby amended to read as follows:

233B.0603 1. The notice of intent to act upon a regulation *required pursuant to NRS 233B.060* must:

(a) Include:

(1) A statement of the need for and purpose of the proposed regulation.

(2) ~~[Either]~~ *If the proposed regulation is a temporary regulation, either* the terms or substance of the proposed regulation or a description of the subjects and issues involved.

(3) *If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.*

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:

(I) Both adverse and beneficial effects; and

(II) Both immediate and long-term effects.

~~[(4)]~~ *(5)* A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

~~[(5)]~~ *(6)* The estimated cost to the agency for enforcement of the proposed regulation.

~~[(6)]~~ *(7)* A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

~~[(7)]~~ *(8)* If the regulation is required pursuant to federal law, a citation and description of the federal law.

~~[(8)]~~ *(9)* If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

~~[(9)]~~ *(10)* The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

(b) ~~[State]~~ *If the proposed regulation is a temporary regulation, state* each address at which the text of the proposed regulation may be inspected and copied.

(c) Include an exact copy of the provisions of subsection 2 of NRS 233B.064.

(d) Include a statement indicating whether the regulation establishes a new fee or increases an existing fee.

(e) Be mailed to all persons who have requested in writing that they be placed upon a mailing list, which must be kept by the agency for that purpose.

(f) Be submitted to the Legislative Counsel Bureau for inclusion in the Register of Administrative Regulations created pursuant to NRS 233B.0653. The publication of a notice of intent to act upon a regulation in the Register

does not satisfy the requirements for notice set forth in paragraph (e) . ~~[of this subsection.]~~

2. The Attorney General may by regulation prescribe the form of notice to be used.

3. In addition to distributing the notice to each recipient of the agency's regulations, the agency shall also solicit comment generally from the public and from businesses to be affected by the proposed regulation.

Sec. 4. NRS 233B.0607 is hereby amended to read as follows:

233B.0607 1. The agency shall at the time of giving the notice ~~[:]~~ *of intent to act upon a regulation required pursuant to NRS 233B.060:*

(a) Deposit one copy of the notice and ~~*[, including the approved or revised]*~~ text of the proposed regulation ~~*[prepared by the Legislative Counsel pursuant to NRS 233B.063,]*~~ with the State Library and Archives Administrator;

(b) Keep at least one copy of the notice and text available in each of its offices from the date of the notice to the date of the hearing, for inspection and copying by the public; and

(c) If the agency does not maintain an office in a county, deposit one copy of the notice and text with the librarian of the main public library in the county.

2. The text of the proposed regulation so disseminated must include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal.

3. After the final ~~[draft or revision]~~ *version* of an adopted regulation is received , each such librarian may discard the deposited copy of the *text of the* proposed regulation.

Sec. 5. NRS 233B.061 is hereby amended to read as follows:

233B.061 1. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing.

2. Before holding the public hearing required pursuant to subsection 3, an agency shall conduct at least one workshop to solicit comments from interested persons on one or more general topics to be addressed in a proposed regulation. Not less than 15 days before the workshop, the agency shall provide notice of the time and place set for the workshop:

(a) In writing to each person who has requested to be placed on a mailing list; and

(b) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

3. With respect to substantive regulations, the agency shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the agency may proceed immediately to act upon any written submissions. The agency

shall consider fully all written and oral submissions respecting the proposed regulation.

4. *An agency shall not hold the public hearing required pursuant to subsection 3 on the same day that the agency holds the workshop required pursuant to subsection 2.*

5. The agency shall keep, retain and make available for public inspection written minutes and an audio recording or transcript of each public hearing held pursuant to subsection 3 in the manner provided in NRS 241.035.

Sec. 6. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. At ~~[or]~~ *least 30 days* before the time of giving notice of its intention to adopt, amend or repeal a permanent regulation an agency shall deliver to the Legislative Counsel a copy of the proposed regulation *.* ~~[or amendment or an identification of the regulation to be repealed.]~~ The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 7. NRS 233B.0633 is hereby amended to read as follows:

233B.0633 1. Upon the request of a Legislator, the Legislative Commission may examine a temporary regulation adopted by an agency that

is not yet effective pursuant to subsection 2 of NRS 233B.070 to determine whether the temporary regulation conforms to the statutory authority pursuant to which it was adopted and whether the temporary regulation carries out the intent of the Legislature in granting that authority.

2. If a temporary regulation that the Legislative Commission is requested to examine pursuant to subsection 1 was required to be adopted by the agency pursuant to a federal statute or regulation and the temporary regulation exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this state, the agency shall submit a statement to the Legislative Commission that adoption of the temporary regulation was required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. ~~[The]~~ *Except as otherwise provided in subsection 4, the* Legislative Commission shall ~~[review]~~ *:*

(a) Review the temporary regulation at its next regularly scheduled meeting if the *request for examination of the* temporary regulation is received more than 10 working days before the meeting ~~[and a regular meeting is held within 35 days after receipt of the temporary regulation. The Legislative Commission may direct the Committee to Review Regulations to examine any temporary regulation that a Legislator has requested to be reviewed more than 35 days before a regular meeting of the Commission is scheduled to be held.~~

~~4. The Legislative Counsel shall notify the agency that adopted the temporary regulation of the results of the review of the temporary regulation by the Legislative Commission within 30 days after receipt of the request for review of the temporary regulation from a Legislator.]~~ *; or*

(b) Refer the temporary regulation for review to the subcommittee to review regulations appointed pursuant to subsection 6 of NRS 233B.067.

4. If an agency determines that an emergency exists which requires a temporary regulation of the agency for which a Legislator requested an examination pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the temporary regulation for review by the subcommittee to review regulations as soon as practicable.

5. If the *Legislative* Commission *, or the subcommittee to review regulations if the temporary regulation was referred,* does not object to the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation with the Secretary of State. If the Commission *or the subcommittee* objects to the temporary regulation after determining that:

(a) If subsection 2 is applicable, the temporary regulation is not required pursuant to a federal statute or regulation;

(b) The temporary regulation does not conform to statutory authority; or

(c) The temporary regulation does not carry out legislative intent,

➥ the Legislative Counsel shall attach to the temporary regulation a written notice of the objection , ~~[of the Commission,]~~ including *, if practicable,* a statement of the reasons for ~~[its]~~ *the* objection, and shall promptly return the temporary regulation to the agency.

~~[5.]~~ *6.* If the Legislative Commission *or the subcommittee to review regulations* has objected to a temporary regulation, the agency that adopted the temporary regulation ~~[may revise it]~~ *shall revise the temporary regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority* and return it to the Legislative Counsel ~~[.]~~ *within 60 days after the agency received the written notice of the objection to the temporary regulation pursuant to subsection 5.* Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the *Legislative* Commission ~~[at its next regularly scheduled meeting. If the Commission does not object]~~ *or the subcommittee for review. If there is no objection* to the revised temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the revised temporary regulation with the Secretary of State.

~~[6.]~~ *7.* If the Legislative Commission *or the subcommittee to review regulations* objects to the revised temporary regulation, the ~~[agency may]~~ *Legislative Counsel shall attach to the revised temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised temporary regulation to the agency. The agency shall* continue to revise it and resubmit it ~~[.~~

~~]~~ ~~[7.]~~ ~~*[8. If* the agency refuses to revise a temporary regulation to which the Legislative Commission *or the subcommittee to review regulations has objected, the* Commission or *the subcommittee* may suspend the filing of the temporary regulation until the final day of the next regular session of the Legislature. Before the final day of the next regular session, the Legislature may, by concurrent resolution or other appropriate legislative measure, declare that the temporary regulation will not become effective. If the Legislature makes such a declaration, the agency shall not file or enforce the temporary regulation or subsequently adopt a substantively identical permanent regulation. If the Legislature has not so declared by the final day of the session, the agency may file the temporary regulation with the Secretary of State.]~~ *to the Legislative Commission or the subcommittee within 30 days after the agency received the written notice of the objection to the revised temporary regulation.*

Sec. 8. ~~[NRS 233B.064 is hereby amended to read as follows:~~

~~233B.064 1. An agency shall not adopt, amend or repeal a permanent regulation , *or give notice pursuant to NRS 233B.060 of its intent to take such action,* until it has received from the Legislative Counsel the approved or revised text of the regulation in the form to be adopted. The agency shall~~

~~immediately notify the Legislative Counsel in writing of the date of adoption of each regulation adopted.~~

~~2. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.~~] *(Deleted by amendment.)*

Sec. 9. NRS 233B.0665 is hereby amended to read as follows:

233B.0665 If a regulation submitted to the Legislative Counsel Bureau pursuant to NRS 233B.067 is not accompanied by an informational statement which complies with the requirements of NRS 233B.066, the Legislative Counsel shall return the regulation to the agency with a note that the statement is missing. Unless the statement is supplied, the Legislative Counsel shall not submit the regulation to the *Legislative* Commission ~~[,]~~ *or the subcommittee to review regulations, as applicable,* and the regulation never becomes effective. ~~[If the statement is supplied, the time for action upon the regulation must be computed from the date of delivering the statement to the Legislative Counsel.]~~

Sec. 10. NRS 233B.067 is hereby amended to read as follows:

233B.067 1. After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to NRS 233B.066 and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission to determine whether the regulation conforms to the statutory authority pursuant to which it was adopted and whether the regulation carries out the intent of the Legislature in granting that authority. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

2. If an agency submits an adopted regulation to the Legislative Counsel pursuant to subsection 1 that:

(a) The agency is required to adopt pursuant to a federal statute or regulation; and

(b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State,

➥ it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the regulation at its next regularly scheduled meeting if the regulation is received more than ~~[3]~~ *10* working days before the meeting; or

(b) Refer the regulation for review to the subcommittee to review regulations appointed pursuant to subsection 6.

4. If an agency determines that an emergency exists which requires a regulation of the agency submitted pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the regulation for review by the subcommittee to review regulations. The subcommittee shall meet to review the regulation as soon as practicable.

5. If the Legislative Commission, or the subcommittee to review regulations if the regulation was referred, does not object to the regulation, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing. If the Commission or subcommittee objects to the regulation after determining that:

(a) If subsection 2 is applicable, the regulation is not required pursuant to a federal statute or regulation;

(b) The regulation does not conform to statutory authority; or

(c) The regulation does not carry out legislative intent,

➥ the Legislative Counsel shall attach to the regulation a written notice of the objection, including *, if practicable,* a statement of the reasons for the objection, and shall promptly return the regulation to the agency.

6. As soon as practicable after each regular legislative session, the Legislative Commission shall appoint a subcommittee to review regulations consisting of at least three members of the Legislative Commission.

Sec. 11. NRS 233B.0675 is hereby amended to read as follows:

233B.0675 1. If the Legislative Commission *,* or the subcommittee to review regulations *appointed pursuant to subsection 6 of NRS 233B.067,* has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the regulation to the Commission or subcommittee for review. If there is no objection to the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission or subcommittee objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including *, if practicable,* a statement of the reasons for the objection, and shall promptly return the revised regulation to the agency. The agency shall continue to revise it and resubmit it to the Commission or subcommittee within 30 days after the agency received the written notice of the objection to the revised regulation.

Sec. 12. NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final

draft or revision of a regulation, except ~~[as otherwise provided in NRS 233B.0665 or]~~ where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with

its regulations must be presented in a form which clearly distinguishes that material from the regulations.

Sec. 13. This act becomes effective on July 1, 2007.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 375.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 410.

"SUMMARY—Revises provisions governing certain unclaimed property held by a county treasurer. ~~[or the Administrator of Unclaimed Property.]~~ (BDR 32-74)"

"AN ACT relating to taxation; revising provisions governing agreements to locate, deliver, recover or assist in the recovery of certain property held in trust by a county treasurer ; ~~[or the Administrator of Unclaimed Property;]~~ providing immunity for ~~[the State or]~~ a county for any losses resulting from the approval of certain claims concerning unclaimed property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the procedure for the disposition of property for which delinquent taxes have not been paid. (NRS 361.5648-361.620) If the delinquent taxes have not been paid within 2 years, the tax receiver is required to execute and deliver a deed of the property in trust to the county treasurer of the county where the property is located. Existing law requires the county treasurer to reconvey the property to certain persons who have an interest in the property upon the timely payment of the taxes owed, including any costs, penalties and interest assessed against the property. Existing law authorizes certain persons who have an interest in the property to enter into an agreement to locate, deliver, recover or assist in the recovery of property held in trust by the county treasurer. Existing law limits the amount of the fee for such an agreement to not more than 10 percent of the total value of the property. (NRS 361.585)

Section 1 of this bill requires that a person who enters into an agreement pursuant to NRS 361.585 to locate, deliver, recover or assist in the recovery of property of another person held in trust by the county treasurer *must* be licensed as a ~~[real estate broker in any state or the District of Columbia and maintain a policy of liability insurance and a surety bond.]~~ *private investigator in this State.* Section 2 of this bill eliminates the requirement that the property which is the subject of the agreement be described in the agreement and the limitation on the amount of the fee that may be imposed for such an agreement. Section 3 of this bill establishes a procedure to recover any excess proceeds from the sale of real property by a county

treasurer . ~~[and requires that any excess proceeds which are not recovered within 3 years must be deposited with the Administrator of Unclaimed Property pursuant to chapter 120A of NRS.]~~ Section 3 also provides that certain persons who are entitled to recover property from the county treasurer may authorize a person pursuant to a power of attorney, assignment or other legal instrument to file a claim and collect from the county treasurer any money owed to him. Section 3 also provides immunity for a county for any losses resulting from the approval of such a claim if the claim is paid by the county treasurer in accordance with the provisions of the legal instrument.

~~[Section 4 of this bill requires that a person who enters into an agreement pursuant to NRS 120A.405 to locate, deliver, recover or assist in the recovery of property of another person which is presumed abandoned maintain a policy of liability insurance and a surety bond. Section 4 also provides that certain persons who are entitled to recover property from the Administrator of Unclaimed Property may authorize a person pursuant to a power of attorney, assignment or other legal instrument to file a claim and collect from the Administrator any money owed to him. Section 4 also provides immunity for the State of Nevada for any losses resulting from the approval of such a claim if the claim is paid by the Administrator in accordance with the provisions of the legal instrument. Section 5 of this bill eliminates the requirement that property which is the subject of an agreement to locate, deliver, recover or assist in the recovery of property presumed abandoned be described in the agreement and the limitation on the amount of the fee that may be imposed for such an agreement.]~~

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

Section 1. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who, pursuant to an agreement described in NRS 361.585, locates, delivers, recovers or assists in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter, including a person who files a claim for recovery of the property on behalf of any person described in subsection 4 of NRS 361.585 must ~~[:~~

~~(a) Be licensed as a real estate broker in any state or the District of Columbia;~~

~~(b) Maintain a policy of insurance covering liability for errors and omissions issued by an insurer authorized pursuant to title 57 of NRS in an amount not less than $1,000,000; and~~

~~(c) Maintain a surety bond issued by an insurer authorized pursuant to title 57 of NRS in an amount not less than $1,000,000.]~~ be licensed as a private investigator pursuant to chapter 648 of NRS.

2. Any person who, pursuant to an agreement described in NRS 361.585, files a claim for recovery of property pursuant to NRS 361.585 or 361.610 must submit proof of compliance with the provisions of subsection 1 when he

files the claim with the county treasurer. The county treasurer shall not accept a claim for recovery of the property without proof of compliance.

Sec. 2. NRS 361.585 is hereby amended to read as follows:

361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired ~~[,]~~ and no redemption has been made, the tax receiver who issued the certificate, or his successor in office, shall execute and deliver to the county treasurer a deed of the property in trust for the use and benefit of the State and county and any officers having fees due them.

2. The county treasurer and his successors in office, upon obtaining a deed of any property in trust under the provisions of this chapter, shall hold that property in trust until it is sold or otherwise disposed of pursuant to the provisions of this chapter.

3. Notwithstanding the provisions of NRS 361.595 or 361.603, at any time during the 90-day period specified in NRS 361.603, or before the public notice of sale by a county treasurer, pursuant to NRS 361.595, of any property held in trust by him by virtue of any deed made pursuant to the provisions of this chapter, any person specified in subsection 4 is entitled to have the property reconveyed upon payment to the county treasurer of an amount equal to the taxes accrued, together with any costs, penalties and interest legally chargeable against the property. A reconveyance may not be made after expiration of the 90-day period specified in NRS 361.603 or after commencement of posting or publication of public notice pursuant to NRS 361.595.

4. Property may be reconveyed pursuant to subsection 3 to one or more of the persons specified in the following categories, or to one or more persons within a particular category, as their interests may appear of record:

(a) The owner.

(b) The beneficiary under a *note and* deed of trust.

(c) The mortgagee under a mortgage.

(d) *The creditor under a judgment.*

(e) The person to whom the property was assessed.

~~[(e)]~~ *(f)* The person holding a contract to purchase the property before its conveyance to the county treasurer.

~~[(f)]~~ *(g)* The successor in interest of any person specified in this subsection.

5. Any agreement to locate, deliver, recover or assist in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter ~~[:~~

~~(a) Must:~~

~~(1)]~~ *must:*

(a) Be in writing ~~[.~~

~~(2)]~~ *;*

(b) Be signed by one or more of the persons identified in subsection 4 ~~[.~~

~~(3) Include a description of the property.~~

~~(4)~~ *; and*

(c) Include the value of the property.

~~[(b) Must not impose a fee that is more than 10 percent of the total value of the property.]~~

6. The provisions of this section apply to land held in trust by a county treasurer on or after April 17, 1971.

Sec. 3. NRS 361.610 is hereby amended to read as follows:

361.610 1. Out of the sale price or rents of any property of which he is trustee, the county treasurer shall pay the costs due any officer for the enforcement of the tax upon the parcel of property and all taxes owing thereon, and upon the redemption of any property from him as trustee, he shall pay the redemption money over to any officers having fees due them from the parcels of property and pay the tax for which it was sold and pay the redemption percentage according to the proportion those fees respectively bear to the tax.

2. In no case may any service rendered by any officer under this chapter become or be allowed as a charge against the county, nor may the sale price or rent or redemption money of any one parcel of property be appropriated to pay any cost or tax upon any other parcel of property than that so sold, rented or redeemed.

3. After paying all the tax and costs upon any one parcel of property, the county treasurer shall pay into the general fund of the county, from the excess proceeds of the sale:

(a) The first $300 of the excess proceeds; and

(b) Ten percent of the next $10,000 of the excess proceeds.

4. The amount remaining after the county treasurer has paid the ~~[amount]~~ *amounts* required by subsection 3 must be deposited in an interest-bearing account maintained for the purpose of holding excess proceeds separate from other money of the county. If no claim is made for the ~~[money within 2]~~ *excess proceeds* ~~*[and any interest earned on the proceeds within 3 years]*~~ *within 1 year* after the deed given by the county treasurer is recorded, the county treasurer shall pay the money into the general fund of the county, and it must not thereafter be refunded to the former property owner or his successors in interest. All interest paid on money deposited in the account required by this subsection is the property of the county. ~~*[excess proceeds and any interest earned on the proceeds to the Administrator of Unclaimed Property pursuant to chapter 120A of NRS.]*~~

5. If a person who would have been entitled to receive reconveyance of the property pursuant to NRS 361.585 makes a claim in writing for the ~~[balance]~~ *excess proceeds* within ~~[2]~~ ~~*[3 years]*~~ *1 year* after the deed is recorded, the county treasurer shall pay it or his proper portion over to him if he is satisfied that the person is entitled to it.

6. A claim for excess proceeds ~~*[and any interest earned on the proceeds]*~~ *must be paid out in the following order of priority to:*

(a) The persons specified in paragraphs (b), (c), (d) and ~~[(e)]~~ (g) of subsection 4 of NRS 361.585 in the order of priority of the recorded liens; and

(b) Any person specified in paragraphs (a), (e) and (f) ~~[and (g)]~~ of subsection 4 of NRS 361.585.

7. The county treasurer shall approve or deny a claim within 30 days after ~~[receipt of the claim.]~~ the period described in subsection 4 for filing a claim has expired. Any records or other documents concerning a claim shall be deemed the working papers of the county treasurer and are confidential. If more than one person files a claim, and the county treasurer is not able to determine who is entitled to the excess proceeds, the matter must be submitted to mediation.

8. If the mediation is not successful, the county treasurer shall:

(a) Conduct a hearing to determine who is entitled to the excess proceeds; or

(b) File an action for interpleader.

9. A person who is aggrieved by a determination of the county treasurer pursuant to this section may, within 90 days after he receives notice of the determination, commence an action for judicial review of the determination in district court.

10. In addition to authorizing a person pursuant to an agreement described in NRS 361.585 to file a claim and collect from the county treasurer any property owed to him, a person described in subsection 4 of NRS 361.585 may authorize a person pursuant to a power of attorney, assignment or any other legal instrument to file a claim and collect from the county treasurer any property owed to him. The county is not liable for any losses resulting from the approval of the claim if the claim is paid by the county treasurer in accordance with the provisions of the legal instrument.

Sec. 4. ~~[Chapter 120A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. A person who, pursuant to an agreement described in NRS 120A.405, files a claim for the recovery of excess proceeds and any interest earned on the proceeds which were delivered to the Administrator as abandoned property pursuant to NRS 361.610 must maintain:*~~

~~*(a) A policy of insurance covering liability for errors and omissions issued by an insurer authorized pursuant to title 57 of NRS in an amount not less than $1,000,000; and*~~

~~*(b) A surety bond issued by an insurer authorized pursuant to title 57 of NRS in an amount not less than $1,000,000.*~~

~~*2. Any person who files such a claim pursuant to this section must submit proof of compliance with the provisions of subsection 1 when he files the claim with the Administrator. The Administrator shall not accept a claim for recovery of the excess proceeds without proof of compliance.*~~

~~*3. In addition to authorizing a person pursuant to an agreement described in NRS 120A.405 to file a claim and collect from the Administrator*~~

~~*any property owed to him, a person described in subsection 4 of NRS 361.585 may authorize a person pursuant to a power of attorney, assignment or any other legal instrument to file a claim and collect from the Administrator any property owed to him. The State of Nevada is not liable for any losses resulting from the approval of the claim if the claim is paid by the Administrator in accordance with the provisions of the legal instrument.]*~~ *(Deleted by amendment.)*

Sec. 5. ~~[NRS 120A.405 is hereby amended to read as follows:~~

~~120A.405 1. Any agreement to locate, deliver, recover or assist in the recovery of property presumed abandoned which is entered into by or on behalf of the owner of the property must:~~

~~(a) Be in writing [.]~~ ~~;~~

~~(b) Be signed by the owner [.~~

~~(c) Include a description of the property.~~

~~(d)]~~ ~~; and~~

~~(e) Include the value of the property.~~

~~[(e) Include the name and address of the person in possession of the property, if known.]~~

~~2. Such an agreement is not valid unless it is executed:~~

~~(a) Before the date on which the property is reported to the Administrator pursuant to NRS 120A.250; or~~

~~(b) Two years after the property has been paid or delivered to the Administrator.~~

~~[3. A fee charged for the location, delivery, recovery or assistance in the recovery of property presumed abandoned must not be more than 10 percent of the total value of the property.]~~ *(Deleted by amendment.)*

Sec. 6. This act becomes effective ~~[upon passage and approval.]~~ *on January 1, 2008.*

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 403.

Bill read second time.

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

Amendment No. 181.

"SUMMARY—Revises provisions relating to group health insurance. (BDR 57-778)"

"AN ACT relating to insurance; providing requirements relating to coverage for group health insurance to certain associations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides requirements concerning group health insurance. (Chapter 689B of NRS) This bill provides requirements for the provision of coverage for group health insurance to members, employees of members and employees of a guaranteed association.

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

Section 1. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer may offer a policy of group health insurance to a guaranteed association if the policy provides coverage for 500 or more members, employees of members or employees of the guaranteed association or their dependents.

2. When an insurer offers coverage to a guaranteed association pursuant to subsection 1, the insurer shall offer coverage to all members, employees of members and employees of the guaranteed association and all dependents thereof without regard to the actual or expected health status of any such member or employee or dependent thereof. The provisions of this subsection apply only for the purpose of requiring coverage to be offered to all such members, employees and dependents.

3. An insurer offering coverage to a guaranteed association pursuant to subsection 1 shall establish rates for premiums as follows:

(a) For the initial 12-month period of coverage, the insurer shall submit to the Commissioner ~~[a certified statement]~~ the opinion of a qualified actuary that the rates charged by the guaranteed association for premiums are actuarially sound. The ~~[statement must be signed by an actuary certifying]~~ opinion must certify the accuracy of the rating methodology as established by the American Academy of Actuaries ~~[,]~~ or a successor organization approved by the Commissioner. The Commissioner by regulation may further define or enlarge the scope of this opinion.

(b) For any subsequent 12-month period of coverage, according to a rating methodology as established by the American Academy of Actuaries or ~~[its]~~ a successor ~~[,]~~ organization approved by the Commissioner.

4. Except as otherwise provided in subsection 5, a member, employee of a member or employee of a guaranteed association may apply for coverage offered pursuant to subsection 1 only:

(a) If, as applicable, the person has been an active member of the association or employed by a member or the guaranteed association for not less than 30 days;

(b) During an annual open enrollment period offered by the guaranteed association; and

(c) After meeting any additional eligibility requirements agreed upon by the guaranteed association and the insurer.

5. If a member, employee of a member or employee of a guaranteed association or a dependent thereof terminates coverage offered pursuant to subsection 1, the member, employee or dependent must be excluded from

such coverage ~~[for 12 months after the date of termination of coverage. Such]~~ until the beginning of the next annual enrollment period. During the next annual enrollment period or any annual enrollment period thereafter, such a member or employee may enroll for coverage of the member or employee or dependent thereof pursuant to subsection 4 . ~~[during an annual open enrollment period following the expiration of the period of exclusion.]~~

6. The provisions of this section do not apply to or affect the status of a person, including, without limitation, whether the person is an employee, self-employed or an independent contractor, for the purposes of industrial insurance or any other law relating to labor or employment.

7. As used in this section ~~[, "guaranteed]~~ :

(a) "Guaranteed association" means an association which:

~~[(a)]~~ (1) Has a constitution and bylaws;

~~[(b)]~~ (2) ~~[Was]~~ Is determined by the Commissioner to be a bona fide association which was organized and is maintained in good faith for purposes other than that of obtaining insurance; and

~~[(c)]~~ (3) Has been in existence for at least ~~[1 year.]~~ 5 years.

(b) "Qualified actuary" means a member in good standing of the American Academy of Actuaries, or a successor organization approved by the Commissioner.

Sec. 2. The provisions of subparagraph 3 of paragraph (a) of subsection 7 of section 1 of this act do not apply to an association which was in existence on January 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Senate Bill No. 432 be taken from the Second Reading File and placed at the bottom of the Second Reading File on the second agenda.

Remarks by Senator Washington.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 430.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 468.

"SUMMARY—Authorizes the Director of the Legislative Counsel Bureau to include the sale of souvenir wine in the Legislative Gift Shop. (BDR 17-1283)"

"AN ACT relating to the Legislative Counsel Bureau; authorizing the Director to include the sale of souvenir wine with other souvenirs sold in the Legislative Gift Shop; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Director of the Legislative Counsel Bureau to approve the purchase and sale of souvenirs of the Nevada Legislature and of the State of Nevada. (NRS 218.6845) Pursuant to this authority, the Legislative Gift Shop was established. Section 1 of this bill authorizes the Director to include the sale of souvenir wine in the gift shop. Sections 2 [~~, 3 and 4~~] *and 3* of this bill exempt the Legislative Counsel Bureau from *certain* licensing requirements with respect to the purchase and sale of souvenir wine in the gift shop. (NRS 244.350, 268.090) [~~, 369.180~~]

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

Section 1. NRS 218.6845 is hereby amended to read as follows:

218.6845 1. The Director may approve the purchase and sale of souvenirs of the Nevada Legislature and of the State of Nevada in the legislative building or any building maintained for the use of the Legislature or the Legislative Counsel Bureau. *Such souvenirs may include, without limitation, souvenir wine.* The Director shall fix reasonable fees for the items which must in the aggregate at least cover the cost to the Legislative Counsel Bureau of purchasing and selling the items.

2. The money received from the sale of souvenirs must be deposited in a revolving account in the Legislative Fund. The money in the revolving account must be used to purchase additional souvenirs for sale and pay any other expenses related to the sale of souvenirs deemed appropriate by the Director. The balance in the revolving account not exceeding $150,000 must not be reverted to the Legislative Fund at the end of the fiscal year.

Sec. 2. NRS 244.350 is hereby amended to read as follows:

244.350 1. The board of county commissioners and, in a county whose population is less than 400,000, the sheriff of that county, constitute a liquor board. The liquor board may, without further compensation, grant or refuse liquor licenses, and revoke those licenses whenever there is, in the judgment of a majority of the board, sufficient reason for revocation. The board shall elect a chairman from among its members.

2. [~~The~~] *Except as otherwise provided in this section, the* liquor board in each of the several counties shall enact ordinances:

(a) Regulating the sale of intoxicating liquors in their respective counties.

(b) Fixing the hours of each day during which liquor may be sold or disposed of.

(c) Prescribing the conditions under which liquor may be sold or disposed of.

(d) Prohibiting the employment or service of minors in the sale or disposition of liquor.

(e) Prohibiting the sale or disposition of liquor in places where, in the judgment of the board, the sale or disposition may tend to create or constitute a public nuisance, or where by the sale or disposition of liquor a disorderly house or place is maintained.

3. In a county whose population is 400,000 or more, the liquor board shall refer any petition for a liquor license to the metropolitan police department. The department shall conduct an investigation relating to the petition and report its findings to the liquor board at the next regular meeting of the board.

4. All liquor dealers within any incorporated city are exempt from the effect of this section, and are to be regulated only by the government of that city.

5. The liquor board may deny or refuse to renew the license of a person who has willfully violated the provisions of NRS 369.630 more than three times in any 24-month period.

6. The liquor board shall not deny a license to a person solely because he is not a citizen of the United States.

7. The Legislative Counsel Bureau is exempt from the provisions of this section with respect to the purchase and sale of souvenir wine pursuant to NRS 218.6845.

Sec. 3. NRS 268.090 is hereby amended to read as follows:

268.090 1. In addition to any authority or power now provided by the charter of any incorporated city in this State, whether incorporated by general or special act, or otherwise, *except as otherwise provided in this section,* there is hereby granted to each of the cities incorporated under any law of this State the power and authority to fix, impose and collect a license tax on, and regulate the sale of, beer, wines or other beverages now or hereafter authorized to be sold by act of Congress.

2. An incorporated city may deny or refuse to renew the license of a person who has willfully violated the provisions of NRS 369.630 more than three times in any 24-month period.

3. An incorporated city shall not deny a license to a person solely because he is not a citizen of the United States.

4. The Legislative Counsel Bureau is exempt from the provisions of this section with respect to the purchase and sale of souvenir wine pursuant to NRS 218.6845.

Sec. 4. ~~[NRS 369.180 is hereby amended to read as follows:~~

~~369.180 1.~~ [In] ~~*Except as otherwise provided in this section, in* addition to the limitations imposed by NRS 597.210 and 597.220, a person shall not:~~

~~(a) Import liquors into this State unless he first secures an importer's license or permit from this State.~~

~~(b) Engage in business as a wholesale dealer of wines and liquors in this State unless he first secures a wholesale wine and liquor dealer's license from this State.~~

~~(c) Engage in business as a wholesale dealer of beer in this State unless he first secures a wholesale beer dealer's license from this State.~~

~~(d) Operate a winery in this State or export wine from this State unless he first secures a wine maker's license from this State.~~

~~(e) Operate an instructional wine making facility in this State unless he first secures a license for the instructional wine making facility from this State.~~

~~(f) Operate a brewery in this State unless he first secures a brewer's license from this State.~~

~~(g) Operate a brew pub in this State unless he first secures a brew pub's license from this State.~~

~~2. A person who holds a license for an instructional wine making facility:~~

~~(a) May engage in any activity authorized by NRS 597.245.~~

~~(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.~~

~~3. *The Legislative Counsel Bureau is exempt from the provisions of this section with respect to the purchase and sale of souvenir wine pursuant to NRS 218.6845.*~~

~~4. As used in this section:~~

~~(a) "Brew pub" has the meaning ascribed to it in NRS 597.200.~~

~~(b) "Brewery" means an establishment which manufactures malt beverages but does not sell those malt beverages at retail.~~

~~(c) "Malt beverage" has the meaning ascribed to it in NRS 597.200.]~~ *(Deleted by amendment.)*

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 454.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 401.

"SUMMARY—Revises the dates upon which certain uncommitted funds from prior appropriations must be reverted. (BDR S-1070)"

"AN ACT relating to state financial administration; revising the dates upon which certain uncommitted funds from prior transfers and appropriations must be reverted; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

During the 2005 Legislative Session, the Legislature required the Commission on Tourism to transfer a portion of the proceeds of the room tax to the Interim Finance Committee for allocation to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River

Recreational Master Plan. The Legislature provided that the tax proceeds must not be committed for expenditure after June 30, 2007, and must be reverted on or before September 21, 2007. Section 1 of this bill extends the reversion date by ~~[1 year]~~ *2 years* and adds a final reporting requirement. In 2005, the Legislature also appropriated money from the State General Fund to the Interim Finance Committee for allocation to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan. The Legislature provided that this money must not be committed for expenditure after June 30, 2007, and must be reverted to the State General Fund on or before September 21, 2007. Section 2 of this bill extends the reversion date by ~~[1 year]~~ *2 years* and adds a final reporting requirement.

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

Section 1. Section 5 of chapter 454, Statutes of Nevada 2005, at page 2089, is hereby amended to read as follows:

Sec. 5. 1. The Commission on Tourism shall, as soon as practicable after July 1, 2005, and July 1, 2006, respectively, without depleting the funds necessary for day-to-day operations, transfer the following amounts from the proceeds from the taxes imposed on the revenue from the rental of transient lodging which have been credited to the Fund for the Promotion of Tourism, created by NRS 231.250, to the Interim Finance Committee:

For the Fiscal Year 2005-2006 ..... $600,000

For the Fiscal Year 2006-2007 ..... $50,000

2. The money transferred pursuant to subsection 1 shall be allocated to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan as adopted by the City of Reno, the City of Sparks and Washoe County through a public review process. The money must be used to plan, obtain permits for, design and construct not more than four projects along the Truckee River that would enhance the recreational enjoyment, aquatic habitat and water quality of the Truckee River. The money must be expended on the following projects but is not limited to Rock Park, Pioneer Diversion Dam, Ambrose Park and Idlewild Park.

3. The Interim Finance Committee shall allocate the money transferred pursuant to subsection 1 upon notification that the City of Reno, the City of Sparks and Washoe County have committed to expend, in total, an equal amount of money on Truckee River improvement related projects. For the purpose of this section, Truckee River improvement related projects include any public project to improve the Truckee River for watershed protection, watershed restoration, recreation or flood control.

4. Upon acceptance of the money allocated pursuant to subsection 2, the Reno-Sparks Convention and Visitors Authority shall prepare and transmit ~~[a]~~ *:*

(a) A report to the Interim Finance Committee on or before December 15, 2006, that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through December 1, 2006 ~~[.]~~ *; and*

(b) A final report to the Interim Finance Committee on or before October 1, ~~[2008,]~~ 2009, that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through September ~~[19, 2008.]~~ 18, 2009.

5. The Reno-Sparks Convention and Visitors Authority shall not assess an administrative fee or fine upon any local governing bodies relating to compliance with the provisions of subsections 3 and 4.

6. A public review and approval process, as determined by the City of Reno, the City of Sparks and Washoe County, must be completed before the commencement of construction of any project that uses money allocated pursuant to this section. Project design, construction documents and funding processes related to any such project must be approved by each local governing body having jurisdiction over the project. Each such project must conform to the parameters of the Truckee River Flood Control Project and the Truckee River Operating Agreement.

7. Any remaining balance of the sums transferred pursuant to subsection 1 must not be committed for expenditure after June 30, ~~[2007,]~~ ~~[2008,]~~ 2009, and must be reverted to the Fund for the Promotion of Tourism on or before September ~~[21, 2007.]~~ ~~[19, 2008.]~~ 18, 2009.

Sec. 2. Section 32 of chapter 7, Statutes of Nevada 2005, 22nd Special Session, at page 120, is hereby amended to read as follows:

Sec. 32. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $600,000 for allocation to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan as adopted by the City of Reno, the City of Sparks and Washoe County through a public review process. The money must be used to plan, obtain permits for, design and construct not more than four projects along the Truckee River that would enhance the recreational enjoyment, aquatic habitat and water quality of the Truckee River. The money must be expended on the following projects but is not limited to Rock Park, Pioneer Diversion Dam, Ambrose Park and Idlewild Park.

2. The Interim Finance Committee shall allocate the money appropriated pursuant to subsection 1 upon notification that the City

of Reno, the City of Sparks and Washoe County have committed to expend, in total, an equal amount of money on Truckee River improvement related projects. For the purpose of this section, Truckee River improvement related projects include any public project to improve the Truckee River for watershed protection, watershed restoration, recreation or flood control.

3. Upon acceptance of the money allocated pursuant to subsection 2, the Reno-Sparks Convention and Visitors Authority shall prepare and transmit ~~[a]~~ *:*

(a) A report to the Interim Finance Committee on or before December 15, 2006, that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through December 1, 2006 ~~[.]~~ *; and*

(b) A final report to the Interim Finance Committee on or before October 1, ~~[2008,]~~ 2009, that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through September ~~[19, 2008.]~~ 18, 2009.

4. The Reno-Sparks Convention and Visitors Authority shall not assess an administrative fee or fine upon any local governing bodies relating to compliance with the provisions of subsections 2 and 3.

5. A public review and approval process, as determined by the City of Reno, the City of Sparks and Washoe County, must be completed before the commencement of construction of any project that uses money allocated pursuant to this section. Project design, construction documents and funding processes related to any such project must be approved by each local governing body having jurisdiction over the project. Each such project must conform to the parameters of the Truckee River Flood Control Project and the Truckee River Operating Agreement.

6. Any remaining balance of the sums appropriated pursuant to subsection 1 must not be committed for expenditure after June 30, ~~[2007,]~~ ~~[2008,]~~ 2009, and must be reverted to the State General Fund on or before September ~~[21, 2007.]~~ ~~[19, 2008.]~~ 18, 2009.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 477.

Bill read second time.

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

Amendment No. 182.

"SUMMARY—Makes various changes relating to the licensing and regulation of time-share sales agents. (BDR 10-1327)"

"AN ACT relating to time shares; providing for the issuance of a provisional sales agent's license by the Real Estate Division of the Department of Business and Industry; setting forth limitations governing such a license; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Pursuant to existing law it is unlawful for a person to sell or offer to sell a time share without first obtaining a sales agent's license from the Real Estate Division of the Department of Business and Industry. (NRS 119A.050, 119A.130, 119A.680) The Real Estate Administrator will issue a sales agent's license to an applicant who submits an application to the Division, in the manner provided by the Division. (NRS 119A.020, 119A.210)

Section 2 of this bill requires the Division to grant a provisional sales agent's license to an applicant upon verifying the applicant's complete submission of certain items to the Division. Pursuant to the conditions of the provisional sales agent's license, an applicant may only conduct certain sales-related activities and may do so only under the employment of his specified project broker. Section 3 of this bill sets forth conditions upon which a provisional sales agent's license will expire. This section also provides for the termination of an applicant's employment with his project broker and the resubmission of an application if an applicant wishes to work for a new project broker. Finally, this section authorizes a hearing for the applicant if his application is denied. Section 4 of this bill sets forth certain restrictions, conditions and limitations on the activities of a provisional sales agent. This section also sets forth requirements concerning the supervision and commissions of a provisional sales agent. *Section 4.5 of this bill provides for a fee for changing the status of a provisional license to a license.*

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

Section 1. Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *1. The Division shall issue a provisional sales agent's license for an applicant who submits:*

(a) A complete application for a sales agent's license in compliance with NRS 119A.210 and applicable regulations;

(b) A written statement of acknowledgment from the project broker who will employ the applicant that:

(1) The project broker has obtained a report on the background of the applicant from a licensed private investigator or other reputable source acceptable to the Division;

(2) The project broker is satisfied that the applicant has a reputation for honesty, trustworthiness and competence; and

(3) There is a written agreement between the project broker and the applicant in which the applicant states that he understands and agrees that his employment in a position as a provisional sales agent will be terminated if the Division denies his application for a sales agent's license; and

(c) A copy of the report described in subparagraph (1) of paragraph (b), which must demonstrate that the applicant has not been convicted of, or pleaded guilty or nolo contendere to, any crime that would be grounds for the Division to deny the application for a sales agent's license pursuant to this chapter or any regulations adopted pursuant thereto.

2. The Division shall issue a provisional license to the project broker for an applicant upon verifying the applicant's complete submission of all the required items set forth in subsection 1.

~~*[3. If the Division approves the application for a sales agent's license, the applicant must pay an additional fee of $20 before the Division may issue the sales agent's license to replace the provisional license issued pursuant to this section.]*~~

Sec. 3. *1. A provisional license issued to an applicant by the Division will expire automatically:*

(a) If the Division denies the applicant's application;

(b) Upon the issuance of a sales agent's license to the project broker for the applicant;

(c) If the Division denies the applicant an identification card or permit of any kind;

(d) If the applicant terminates employment with the project broker who provided the written statement of acknowledgment identified in section 2 of this act; or

(e) If the applicant's check for the fee for the application of an original license is returned for insufficient funds.

2. An applicant may not work for a new project broker without resubmitting a complete application for a sales agent's license in compliance with NRS 119A.210 and section 2 of this act and applicable regulations.

3. Except as otherwise provided in this section, a provisional license expires 1 year after its date of issuance and may not be renewed.

4. Within 10 days after an applicant's employment is terminated, the project broker shall notify the Division of the termination and return the provisional license to the Division.

5. If the Division denies the application for a sales agent's license, the applicant:

(a) May request a hearing to contest the denial of the application pursuant to this chapter and any regulations adopted pursuant thereto; and

(b) Shall not work as a provisional sales agent or in any other position that requires a provisional license while the decision on the appeal requested pursuant to paragraph (a) is pending.

Sec. 4. *1. A provisional licensee shall not:*

(a) Conduct sales-related activities unless he is:

(1) Under the supervision of:

(I) His project broker; or

(II) A cooperating real estate broker designated by the project broker in accordance with the provisions of this chapter and any regulations adopted pursuant thereto.

(2) At the principal place of business or a branch office of the project broker, or at the physical location of a time-share development.

(b) Collect personal information from a prospective purchaser or purchaser of a time share.

2. A project broker shall not grant to a provisional licensee:

(a) Access to a time-share lockbox; or

(b) The ability to enter a private residence or a time-share unit that an unlicensed person otherwise would not have.

3. A project broker or a cooperating real estate broker designated by the project broker in accordance with the provisions of this chapter and any regulations adopted pursuant thereto shall:

(a) Supervise the provisional licensee employed by the project broker; and

(b) Review and approve in writing any contract prepared by the provisional licensee that relates to the sale of a time share.

4. A provisional licensee may receive a commission for the sale of a time share in which the provisional licensee is involved.

5. As used in this section:

(a) "Personal information" has the meaning ascribed to it in NRS 603A.040.

(b) "Provisional licensee" means an applicant who receives a provisional sales agent's license from the Division pursuant to section 2 of this act.

Sec. 4.5. *NRS 119A.360 is hereby amended to read as follows:*

119A.360 1. The Division shall collect the following fees at such times and upon such conditions as it may provide by regulation:

For each application for the registration of a representative	$85
For each renewal of the registration of a representative	85
For each transfer of the registration of a representative to a different developer	20
For each penalty for a late renewal of the registration of a representative	40
For each preliminary permit to sell time shares	275
For each permit to sell time shares, per subdivision	500
For each amendment to a public offering statement after the issuance of the report	150
For each renewal of a permit to sell time shares	500
For each original and annual registration of a manager	75
For each application for an original license as a sales agent	175
For each renewal of a license as a sales agent	175
For each penalty for a late renewal of a license as a sales agent	75

For each change of name or address *of a licensee or status of a license* 20

For each duplicate license, permit or registration where the original is lost or destroyed, and an affidavit is made thereof 20

For each annual approval of a course of instruction offered in preparation for an original license or permit 100

For each original accreditation of a course of continuing education $100

For each renewal of accreditation of a course of continuing education 50

2. Each developer shall pay an additional fee for each time share he sells in a time-share plan over 50 pursuant to the following schedule:

Number of time shares	Amount to be paid per time share
51—250	$5.00
251—500	4.00
501—750	3.00
751—1500	2.50
over 1500	1.00

3. Except for the fees relating to the registration of a representative, the Administrator may reduce the fees established by this section if the reduction is equitable in relation to the costs of carrying out the provisions of this chapter.

4. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a license, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

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

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 491.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 465.

"SUMMARY—Establishes the preferred manner of referring to persons with disabilities in Nevada Revised Statutes ~~[.]~~ *and the Nevada Administrative Code.* (BDR 17-297)"

"AN ACT relating to persons with disabilities; establishing the preferred manner of referring to such persons in Nevada Revised Statutes ~~[.]~~ *and the*

Nevada Administrative Code; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes the preferred manner of referring to persons with disabilities in Nevada Revised Statutes ~~[by requiring]~~ *and the Nevada Administrative Code. This bill requires* the Legislative Counsel, to the extent practicable, to ensure that persons with physical, mental or cognitive disabilities are referred to in Nevada Revised Statutes using language that is commonly viewed as respectful and sentence structure that refers to the person before referring to his disability ~~[.]~~ *, and provides that it is the policy of this State that such persons are referred to in a similar manner in the Nevada Administrative Code.*

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

Section 1. Chapter 220 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Legislative Counsel shall, to the extent practicable, ensure that persons with physical, mental or cognitive disabilities are referred to in Nevada Revised Statutes using language that is commonly viewed as respectful and sentence structure that refers to the person before referring to his disability.

2. Words and terms that are preferred for use in Nevada Revised Statutes include, without limitation, "persons with disabilities," "persons with mental illness," "persons with mental retardation" and other words and terms that are structured in a similar manner.

3. Words and terms that are not preferred for use in Nevada Revised Statutes include, without limitation, "disabled," "handicapped," "mentally disabled," "mentally ill," "mentally retarded" and other words and terms that tend to equate the disability with the person.

Sec. 2. NRS 233B.062 is hereby amended to read as follows:

233B.062 1. It is the policy of this State that every regulation of an agency be made easily accessible to the public and expressed in clear and concise language. To assist in carrying out this policy:

(a) The Attorney General must develop guidelines for drafting regulations; and

(b) Every permanent regulation must be incorporated, excluding any forms used by the agency, any publication adopted by reference, the title, any signature and other formal parts, in the Nevada Administrative Code, and every emergency or temporary regulation must be distributed in the same manner as the Nevada Administrative Code.

2. *It is the policy of this State that persons with physical, mental or cognitive disabilities are to be referred to in the Nevada Administrative Code using language that is commonly viewed as respectful and sentence structure that refers to the person before referring to his disability, in the same manner as provided in section 1 of this act for Nevada Revised Statutes.*

3. The Legislative Counsel shall:

(a) Include each permanent regulation in the Nevada Administrative Code; and

(b) Distribute in the same manner as the Nevada Administrative Code each emergency or temporary regulation,

➥ that is required to be adopted pursuant to the provisions of this chapter and which is adopted by an entity other than an agency.

~~[3.]~~ *4.* The Legislative Commission may authorize inclusion in the Nevada Administrative Code of the regulations of an agency otherwise exempted from the requirements of this chapter.

~~[Sec. 2.]~~ *Sec. 3.* The Legislative Counsel shall ~~[, in]~~ *:*

1. In preparing the reprint and supplements to Nevada Revised Statutes in 2007, appropriately change any words and terms in Nevada Revised Statutes in the manner that the Legislative Counsel determines necessary to conform those words and terms to the provisions of section 1 of this act.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any words and terms in the Nevada Administrative Code in the manner that the Legislative Counsel determines necessary to conform those words and terms to the provisions of subsection 2 of NRS 233B.062, as amended by section 2 of this act.

~~[Sec. 3.]~~ *Sec. 4.* This act becomes effective on July 1, 2007.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 503.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 435.

"SUMMARY— ~~[Requires payment of penalty and interest for failure to pay to]~~ *Revises provisions governing fees and taxes administered by* the Department of Taxation*.* ~~[required licensing fees for exhibitions in a timely manner.]~~ (BDR 32-579)"

"AN ACT relating to state revenue; requiring the payment of a penalty and interest for failure to pay to the Department of Taxation required licensing fees for exhibitions in a timely manner; *providing an exemption from taxation for products made from tobacco, other than cigarettes, under certain circumstances;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a person who conducts a business in this State to have a state business license, but provides an exception for a person who takes part in an exhibition, such as a trade show, craft show or convention, at a facility for purposes related to a business if the person or governmental

entity that operates the facility pays to the Department of Taxation a licensing fee on behalf of the person. (NRS 360.767, 360.780, 360.787)

Section 1 of this bill imposes a penalty of not more than 10 percent of the amount due, plus interest at the rate of 1 percent per month, on persons or governmental entities that fail to pay such required licensing fees to the Department in a timely manner.

Existing law imposes on the purchase or possession in this State of products made from tobacco, other than cigarettes, a tax of 30 percent of the wholesale price of those products. The wholesale dealer is responsible for collecting and paying the tax. (NRS 370.450)

Section 2 of this bill provides an exemption from the tax for such products which are acquired free of charge at a trade show, convention or other exhibition or public event in this State, and which do not have significant value as determined by the Department by regulation.

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

Section 1. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, or any fee provided for in NRS 482.313, *and any person or governmental entity that fails to pay any fee provided for in NRS 360.787,* to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 2. NRS 370.450 is hereby amended to read as follows:

370.450 1. Except as otherwise provided in subsection 2, there is hereby imposed upon the purchase or possession of products made from tobacco, other than cigarettes, by a customer in this State a tax of 30 percent of the wholesale price of those products.

2. The provisions of subsection 1 do not apply to those products which are:

(a) Shipped out of the State for sale and use outside the State; ~~[or]~~

(b) Displayed or exhibited at a trade show, convention or other exhibition in this State by a manufacturer or wholesale dealer who is not licensed in this State ~~[.]~~ *; or*

(c) Acquired free of charge at a trade show, convention or other exhibition or public event in this State, and which do not have significant value as determined by the Department by regulation.

3. This tax must be collected and paid by the wholesale dealer to the Department, in accordance with the provisions of NRS 370.465, after the sale or distribution of those products by the wholesale dealer. The wholesale dealer is entitled to retain 0.5 percent of the taxes collected to cover the costs of collecting and administering the taxes if the taxes are paid in accordance with the provisions of NRS 370.465.

4. Any wholesale dealer who sells or distributes any of those products without paying the tax provided for by this section is guilty of a misdemeanor.

~~[Sec. 2.]~~ *Sec. 3.* This act becomes effective on July 1, 2007.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 529.

Bill read second time.

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

Amendment No. 325.

"SUMMARY—Revises certain provisions relating to Medicaid. (BDR 38-601)"

"AN ACT relating to Medicaid; revising certain provisions concerning the recovery from recipients or third parties of certain costs for Medicaid paid by the Department of Health and Human Services; *revising certain provisions concerning assessments on nursing facilities;* revising certain provisions concerning liability for the submission of a false claim to the State or a local government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the Department of Health and Human Services is subrogated to the right of a recipient of Medicaid when the recipient incurs costs for medical services which are payable by the Department under circumstances which create legal liability for such costs in a third party. (NRS 422.293) Sections ~~[2-9]~~ *2-10* of this bill revise certain provisions concerning the recovery of such costs by the Department and impose liability for such costs on certain persons who do not comply with the procedures established to protect the right of the Department to recover benefits paid by Medicaid.

Existing law provides for the assessment of fees on nursing facilities to increase the quality of nursing care. (NRS 422.3755-422.379) Sections 12 and 13 of this bill revise the determination of the amount of the fees to comply with federal law and to allow the recoupment of the fees and any administrative penalties from payments made pursuant to the Medicaid program.

The Federal Deficit Reduction Act of 2005, Public Law 109-171, enacted certain provisions concerning state plans for Medicaid. Section 6031 of the Federal Deficit Reduction Act provides financial incentives for states that enact laws establishing liability for false or fraudulent claims made to the State Plan for Medicaid. To be eligible for these financial incentives, the laws of a state must contain provisions that are at least as effective at rewarding and facilitating qui tam actions for false or fraudulent claims as those described in the Federal False Claims Act, 31 U.S.C. §§ 3730-3732. Sections ~~[18-22]~~ *21-25* of this bill amend existing law concerning the filing of false or fraudulent claims to comply with the provisions of section 6031 of the Federal Deficit Reduction Act. (NRS 357.040, 357.070, 357.080, 357.110, 357.170)

Sections ~~[26-31]~~ *29-34* of this bill amend existing law to comply with the requirements of section 6035 of the Federal Deficit Reduction Act concerning certain providers of health insurance. Sections ~~[26-31]~~ *29-34* require providers of health insurance to provide certain information concerning a person who is eligible for assistance under Medicaid to the State upon request. Sections ~~[26-31]~~ *29-34* also require providers of health insurance to respond to inquiries by the State concerning a claim for payment for medical assistance not later than 3 years after the date of provision of the medical services. Sections ~~[26-31]~~ *29-34* require providers of health insurance to agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim or the form of documentation submitted if the State submits the claim not later than 3 years after the date of the provision of medical assistance and the State commences any action to enforce its rights with respect to the claim not later than 6 years after submission of the claim. (NRS 689A.430, 689B.300, 695A.151, 695B.340, 695C.163, 695F.440)

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[8,]~~ 9, inclusive, of this act.

Sec. 2. *In any case where the Department is subrogated to the rights of the recipient or his successors in interest as provided in NRS 422.293, the Department has a lien upon the proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of judgment, settlement or otherwise. Such a lien must be satisfied in full:*

1. Before any portion of the proceeds of any recovery or settlement is disbursed to the recipient, his successors in interest or his attorney; and

2. Not later than 30 days after the proceeds of any recovery or settlement are distributed to or on behalf of the recipient, his successors in interest or his attorney,

➥ *except that the date on which such a lien must be satisfied in full may be changed by consent of the Department and the recipient, his successors in*

interest or his attorney. The Department shall not refuse to provide consent without good cause.

Sec. 3. *1. A recipient who asserts an action or claim to which the Department is subrogated pursuant to NRS 422.293, his successor in interest, his guardian or his attorney shall provide written notice to the Department:*

(a) Upon the filing of a claim against a third party;

(b) Upon entering into the negotiation of a settlement with a third party or the third party's insurer;

(c) Upon intervention in or consolidation of any action against a third party; and

(d) At least 30 days before the entry of any judgment, award, settlement or release of liability in any action or claim to which the Department is subrogated pursuant to NRS 422.293.

2. The notice provided pursuant to subsection 1 must include, without limitation:

(a) The name of the recipient;

(b) The social security number of the recipient;

(c) The date of birth of the recipient;

(d) The name of the attorney of the recipient, if applicable;

(e) The name of any person against whom the recipient is making a claim, if known;

(f) The name of any insurer of any person against whom the recipient is making a claim, if known;

(g) The date of the incident giving rise to the claim; and

(h) A short statement identifying the nature of the recipient's claim or the terms of any settlement, judgment or award.

3. ~~[Any person who fails to comply with the provisions of this section is liable to the Department for:~~

~~(a) The total amount of the Department's lien created pursuant to section 2 of this act;~~

~~(b) A civil penalty equal to 10 percent of the amount of the Department's lien; and~~

~~(c) Any attorney's fees and litigation expenses incurred by the Department in enforcing the Department's rights pursuant to NRS 422.293 and sections 2 to 8, inclusive, of this act,~~

~~"~~ ~~except that a person other than the recipient is not liable to the Department if the court determines that the failure to provide notice is due to excusable neglect or unless it is established that the person had knowledge that the recipient received benefits from the Department.~~

~~4.~~ 4. Any statute of limitations applicable to any claim or action by the Department is tolled until such time as the Department receives the notice required by this section.

Sec. 4. *Upon receiving the notice required pursuant to section 3 of this act, the Department shall provide written notice to the recipient, his*

successors in interest or his attorney and to the third party. The written notice must include, without limitation, the name of the recipient and the amount of the Department's lien. No lien created pursuant to section 2 of this act is enforceable unless written notice is first given to the person against whom the lien is asserted.

Sec. 5. *1. The Department may bring an action in any district court in this State to enforce its rights under NRS 422.293 and sections 2 to ~~[8,]~~ 9, inclusive, of this act not less than 30 days after providing written notice to a person who is liable to the Department pursuant to section ~~[3]~~ 9 of this act.*

2. The Department shall enforce its rights under NRS 422.293 and sections 2 to ~~[8,]~~ 9, inclusive, of this act and may enter into a contract for the recovery of any claim or right of indemnity pursuant to NRS 422.293 and sections 2 to ~~[8,]~~ 9, inclusive, of this act. In enforcing its rights under this section, the Department may:

(a) Allow the recipient, in conjunction with his own claim, to proceed on behalf of the Department in prosecuting the Department's claim for the unreimbursed value or cost of the medical services provided;

(b) Intervene or join in any claim or action brought by a recipient;

(c) Prosecute a claim or action on behalf of the Department or the recipient, alone or in conjunction with the recipient; or

(d) Compromise, settle or release any claim against a third party.

Sec. 6. *1. If the Department receives notice pursuant to section 3 of this act, the Director or his designated representative may, in consideration of the legal services provided by an attorney to procure a recovery for the recipient, reduce the lien on the proceeds of any recovery.*

2. The attorney of a recipient:

(a) Shall not condition the amount of attorney's fees or impose additional attorney's fees based on whether a reduction of the lien is authorized by the Director or his designated representative pursuant to subsection 1.

(b) Shall reduce the amount of the fees charged the recipient for services provided by the amount the attorney receives from the reduction of a lien authorized by the Director or his designated representative pursuant to subsection 1.

Sec. 7. *1. The Department's right to recover from any third party pursuant to NRS 422.293 and sections 2 to ~~[8,]~~ 9, inclusive, of this act is independent of any right of the recipient to recover. No release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, settlement agreement or compromise of any claim by the recipient is binding on the Department against a third party unless the Department joins in the release or satisfaction or executes a release of the lien. A release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, settlement agreement or compromise of any claim by the recipient without prior notification to and approval of the Department constitutes conclusive evidence of the liability of the third party in any claim by the Department against the third party. In*

prosecuting such a claim, the Department must establish only the amount and accuracy of its claim relating to the payment of medical services.

2. In any claim or action for the recovery of the costs of medical services paid to or on behalf of a recipient in which the Department is named to be a plaintiff, the Department may recover the full value of the Department's lien created pursuant to section 2 of this act.

Sec. 8. *An action or claim for personal injury brought by or on behalf of a recipient, or on behalf of the estate of a recipient, must include a claim for medical expenses incurred by the Department. In any recovery in an action or claim for personal injury brought by or on behalf of a recipient, or on behalf of the estate of a recipient, not less than the first one-third portion of any settlement, claim or judgment must be designated to be medical expenses. The Department shall recover its claim from the portion of the settlement, claim or judgment designated as medical expenses. Except as otherwise provided in section 6 of this act, the Department may recover the lesser of:*

1. One-third of the entire settlement, claim or judgment; or

2. The full value of the Department's lien created pursuant to section 2 of this act.

Sec. 9. Any person who fails to comply with the provisions of NRS 422.293 and sections 2 to 9, inclusive, of this act is liable to the Department for:

1. The total amount of the Department's lien created pursuant to section 2 of this act;

2. A civil penalty equal to 10 percent of the amount of the Department's lien; and

3. Any attorney's fees and litigation expenses incurred by the Department in enforcing the Department's rights pursuant to NRS 422.293 and sections 2 to 9, inclusive, of this act.

~~[Sec. 9.]~~ *Sec. 10.* NRS 422.293 is hereby amended to read as follows:

422.293 ~~[1.]~~ When a recipient of Medicaid or a recipient of insurance provided pursuant to the Children's Health Insurance Program incurs an illness or injury for which medical services are payable by the Department and which is incurred under circumstances creating a legal liability in some person other than the recipient or a division of the Department to pay all or part of the costs of such services, the Department is subrogated to the right of the recipient to the extent of all such costs . ~~[and may join or intervene in any action by the recipient or his successors in interest to enforce such legal liability.~~

~~2. If a recipient or his successors in interest fail or refuse to commence an action to enforce the legal liability, the Department may commence an independent action, after notice to the recipient or his successors in interest, to recover all costs to which it is entitled. In any such action by the Department, the recipient or his successors in interest may be joined as third-party defendants.~~

~~3. In any case where the Department is subrogated to the rights of the recipient or his successors in interest as provided in subsection 1, the Department has a lien upon the proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of judgment, settlement or otherwise. Such a lien must be satisfied in full, unless reduced pursuant to subsection 5, at such time as:~~

~~(a) The proceeds of any recovery or settlement are distributed to or on behalf of the recipient, his successors in interest or his attorney; and~~

~~(b) A dismissal by any court of any action brought to enforce the legal liability established by subsection 1.~~

~~➥ No such lien is enforceable unless written notice is first given to the person against whom the lien is asserted.~~

~~4. The recipient or his successors in interest shall notify the Department in writing before entering any settlement agreement or commencing any action to enforce the legal liability referred to in subsection 1. Except if extraordinary circumstances exist, a person who fails to comply with the provisions of this subsection shall be deemed to have waived any consideration by the Director or his designated representative of a reduction of the amount of the lien pursuant to subsection 5 and shall pay to the Department all costs to which it is entitled and its court costs and attorney's fees.~~

~~5. If the Department receives notice pursuant to subsection 4, the Director or his designated representative may, in consideration of the legal services provided by an attorney to procure a recovery for the recipient, reduce the lien on the proceeds of any recovery.~~

~~6. The attorney of a recipient:~~

~~(a) Shall not condition the amount of attorney's fees or impose additional attorney's fees based on whether a reduction of the lien is authorized by the Director or his designated representative pursuant to subsection 5.~~

~~(b) Shall reduce the amount of the fees charged the recipient for services provided by the amount the attorney receives from the reduction of a lien authorized by the Director or his designated representative pursuant to subsection 5.~~

~~[Sec. 10.]~~ *Sec. 11.* NRS 422.29306 is hereby amended to read as follows:

422.29306 1. The Department may, to the extent not prohibited by federal law, petition for the imposition of a lien pursuant to the provisions of NRS 108.850 against real or personal property of a recipient of Medicaid as follows:

(a) The Department may obtain a lien against a recipient's property, both real or personal, before or after his death in the amount of assistance paid or to be paid on his behalf if the court determines that assistance was incorrectly paid for the recipient.

(b) The Department may seek a lien against the real property of a recipient at any age before his death in the amount of assistance paid or to be paid for

him if he is an inpatient in a nursing facility, intermediate care facility for the mentally retarded or other medical institution and the Department determines, after notice and opportunity for a hearing in accordance with applicable regulations, that the recipient cannot reasonably be expected to be discharged and return home.

2. No lien may be placed on a recipient's home pursuant to paragraph (b) of subsection 1 for assistance correctly paid if:

(a) His spouse;

(b) His child who is under 21 years of age, blind or disabled as determined in accordance with 42 U.S.C. § 1382c; or

(c) His brother or sister who is an owner or part owner of the home and who was residing in the home for at least 1 year immediately before the date the recipient was admitted to the medical institution,

➥ is lawfully residing in the home.

3. Upon the death of a recipient, the Department may seek a lien upon the recipient's undivided estate as defined in NRS 422.054.

4. *The amount of the lien recovery must be based on the value of the real or personal property at the time of sale of the property.*

5. The Director shall release a lien pursuant to this section:

(a) Upon notice by the recipient or his representative to the Director that the recipient has been discharged from the medical institution and has returned home;

(b) If the lien was incorrectly determined; or

(c) Upon satisfaction of the claim of the Department.

Sec. 12. *NRS 422.3775 is hereby amended to read as follows:*

422.3775 1. Each nursing facility that is licensed in this State shall pay a fee assessed by the Division to increase the quality of nursing care in this State.

2. To determine the amount of the fee to assess pursuant to this section, the Division shall establish a ~~[uniform]~~ rate per non-Medicare patient day that is equivalent to ~~[6 percent]~~ *a percentage* of the total annual accrual basis gross revenue for services provided to patients of all nursing facilities licensed in this State. *The percentage used to establish the rate must not exceed that allowed by federal law.* For the purposes of this subsection, total annual accrual basis gross revenue does not include charitable contributions received by a nursing facility.

3. The Division shall calculate the fee owed by each nursing facility by multiplying the total number of days of care provided to non-Medicare patients by the nursing facility, as provided to the Division pursuant to NRS 422.378, by the ~~[uniform]~~ rate established pursuant to subsection 2.

4. A fee assessed pursuant to this section is due 30 days after the end of the month for which the fee was assessed.

5. The payment of a fee to the Division pursuant to NRS 422.3755 to 422.379, inclusive, is an allowable cost for Medicaid reimbursement purposes.

Sec. 13. *NRS 422.379 is hereby amended to read as follows:*

422.379 *1.* The Division shall establish administrative penalties for the late payment by a nursing facility of a fee assessed pursuant to NRS 422.3755 to 422.379, inclusive.

2. The Division may recoup any payments made to nursing facilities providing services pursuant to the Medicaid program up to the amount of the fees owed as determined pursuant to NRS 422.3775 and any administrative penalties owed pursuant to subsection 1 if a nursing facility fails to remit the fees and administrative penalties owed within 30 days after the date they are due. Before recoupment of payments pursuant to this subsection, the Division may allow a nursing facility that fails to remit fees and administrative penalties owed an opportunity to negotiate a repayment plan with the Division. The terms of the repayment plan may be established at the discretion of the Division.

~~[Sec. 11.]~~ *Sec. 14.* NRS 425.360 is hereby amended to read as follows:

425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, whether or not the parent received prior notice that his child was receiving public assistance.

2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 , ~~[(]~~ 29 U.S.C.A. § 1167(1) , ~~[),]~~ service benefit plan, *self-insured plan* or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessaries for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.

3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment

Security Division of the Department of Employment, Training and Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.

4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.

5. If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:

(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and

(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.

~~[Sec. 12.]~~ *Sec. 15.* NRS 108.850 is hereby amended to read as follows:

108.850 1. A petition to the district court for the imposition of a lien as described and limited in NRS 422.29306 to recover money owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid must set forth:

(a) The facts concerning the giving of assistance;

(b) The name and address of the person who is receiving or who received the benefits for Medicaid;

(c) A description of the property, sufficient for identification *;* ~~[, and its estimated value;]~~

(d) The names, ages, residences and relationship of all persons who are claiming an interest in the property or who are listed as having any interest in the property, so far as known to the petitioner; and

(e) An itemized list of the amount owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid.

2. No defect of form or in the statement of facts actually existing voids the petition for the lien.

~~[Sec. 13.]~~ *Sec. 16.* NRS 132.185 is hereby amended to read as follows:

132.185 "Interested person" includes *, without limitation,* an heir, devisee, child, spouse, creditor, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent ~~[.]~~ *, including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of*

Health and Human Services as a result of the payment of benefits for Medicaid. The term includes a person having priority for appointment as a personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

~~[Sec. 14.]~~ *Sec. 17.* NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward.

(b) Continue the business of the ward.

(c) Borrow money for the ward.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives.

(f) Sell, lease, place into any type of trust or surrender any property of the ward.

(g) Exchange or partition the ward's property.

(h) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(i) Release the power of the ward as trustee, personal representative, custodian for a minor or guardian.

(j) Exercise or release the power of the ward as a donee of a power of appointment.

(k) Change the state of residence or domicile of the ward.

(l) Exercise the right of the ward to take under or against a will.

(m) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(n) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(o) *Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.*

(p) Take any other action which the guardian deems would be in the best interests of the ward.

2. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

3. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

4. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed , the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward, or to complete contracts of the ward.

~~[Sec. 15.]~~ *Sec. 18.* NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given:

(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;

(b) At least 10 days before the date set for the hearing, by personal service;

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or

(d) In any other manner ordered by the court, for good cause shown.

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

3. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:

(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.

(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.

(c) The guardian of the person of the ward, if the guardian is not the petitioner.

(d) Any person or care provider having the care, custody or control of the ward.

(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(f) *The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.*

(g) Any other interested person or his attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and his name and address, or that of his attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or his attorney.

4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.

5. Proof of giving notice must be:

(a) Made on or before the date set for the hearing; and

(b) Filed in the guardianship proceeding.

~~[Sec. 16.]~~ *Sec. 19.* NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, *Director of the Department of Health and Human Services,* public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

~~[Sec. 17.]~~ *Sec. 20.* NRS 239A.075 is hereby amended to read as follows:

239A.075 Upon presentation of a death certificate, affidavit of death or other proof of death, a financial institution shall provide *the Director of the Department of Health and Human Services or* a public administrator with a statement which sets forth the identifying number and account balance of any accounts on which only the name of the deceased person appears. A financial institution may charge a reasonable fee, not to exceed $2, to provide a public administrator with a statement pursuant to the provisions of this section.

~~[Sec. 18.]~~ *Sec. 21.* NRS 357.040 is hereby amended to read as follows:

357.040 1. Except as otherwise provided in NRS 357.050, a person who, with or without specific intent to defraud, does any of the following listed acts is liable to the State or a political subdivision, whichever is affected, for three times the amount of damages sustained by the State or political subdivision because of the act of that person, for the costs of a civil action brought to recover those damages and for a civil penalty of not less than ~~[$2,000]~~ *$5,000* or more than $10,000 for each act:

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

(b) Knowingly makes or uses, or causes to be made or used, a false record or statement to obtain payment or approval of a false claim.

(c) Conspires to defraud by obtaining allowance or payment of a false claim.

(d) Has possession, custody or control of public property or money and knowingly delivers or causes to be delivered to the State or a political subdivision less money or property than the amount for which he receives a receipt.

(e) Is authorized to prepare or deliver a receipt for money or property to be used by the State or a political subdivision and knowingly prepares or delivers a receipt that falsely represents the money or property.

(f) Knowingly buys, or receives as security for an obligation, public property from a person who is not authorized to sell or pledge the property.

(g) Knowingly makes or uses, or causes to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the State or a political subdivision.

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

2. As used in this section, a person acts "knowingly" with respect to information if he:

(a) Has knowledge of the information;

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

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

~~[Sec. 19.]~~ *Sec. 22.* NRS 357.070 is hereby amended to read as follows:

357.070 The Attorney General ~~[may]~~ *shall* investigate any alleged liability pursuant to this chapter and may bring a civil action pursuant to this chapter against the person liable.

~~[Sec. 20.]~~ *Sec. 23.* NRS 357.080 is hereby amended to read as follows:

357.080 1. Except as otherwise provided in this section and NRS 357.090 and 357.100, a private plaintiff may maintain an action pursuant to this chapter on his own account and that of the State if money, property or services provided by the State are involved, or on his own account and that of a political subdivision if money, property or services provided by the political subdivision are involved, or on his own account and that of both the State and a political subdivision if both are involved. After such an action is commenced, it may be dismissed only with leave of the court, taking into account the public purposes of this chapter and the best interests of the parties.

2. If a private plaintiff brings an action pursuant to this chapter, no other person may bring another action pursuant to this chapter based on the same facts.

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

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

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

4. A complaint filed pursuant to this section must be placed under seal and so remain *for at least 60 days or* until the Attorney General has elected whether to intervene. No service may be made upon the defendant until the complaint is unsealed.

5. On the date the private plaintiff files his complaint, he shall send a copy of the complaint to the Attorney General by mail with return receipt

requested. He shall send with each copy of the complaint a written disclosure of substantially all material evidence and information he possesses.

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

~~[Sec. 21.]~~ *Sec. 24.* NRS 357.110 is hereby amended to read as follows:

357.110 1. Within ~~[120]~~ *60* days after receiving a complaint and disclosure, the Attorney General may intervene and proceed with the action or he may, for good cause shown, move the court to extend the time for his election whether to proceed. The motion may be supported by affidavits or other submissions in chambers.

2. If the Attorney General elects to intervene, the complaint must be unsealed. If the Attorney General elects not to intervene, the private plaintiff may proceed and the complaint must be unsealed.

~~[Sec. 22.]~~ *Sec. 25.* NRS 357.170 is hereby amended to read as follows:

357.170 1. An action pursuant to this chapter may not be commenced more than 3 years after the date ~~[of discovery of the fraudulent activity by]~~ *on which* the Attorney General *discovers, or reasonably should have discovered, the fraudulent activity* or more than ~~[5]~~ *6* years after the fraudulent activity occurred, ~~[whichever is earlier.]~~ *but in no event more than 10 years after the fraudulent activity occurred.* Within those limits, an action may be based upon fraudulent activity that occurred before ~~[October 1, 1999.]~~ *July 1, 2007.*

2. In an action pursuant to this chapter, the standard of proof is a preponderance of the evidence. A finding of guilt in a criminal proceeding charging false statement or fraud, whether upon a verdict of guilty or a plea of guilty or nolo contendere, estops the person found guilty from denying an essential element of that offense in an action pursuant to this chapter based upon the same transaction as the criminal proceeding.

~~[Sec. 23.]~~ *Sec. 26.* NRS 361.585 is hereby amended to read as follows:

361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired, and no redemption has been made, the tax receiver who issued the certificate, or his successor in office, shall execute and deliver to the county treasurer a deed of the property in trust for the use and benefit of the State and county and any officers having fees due them.

2. The county treasurer and his successors in office, upon obtaining a deed of any property in trust under the provisions of this chapter, shall hold that property in trust until it is sold or otherwise disposed of pursuant to the provisions of this chapter.

3. Notwithstanding the provisions of NRS 361.595 or 361.603, at any time during the 90-day period specified in NRS 361.603, or before the public

notice of sale by a county treasurer, pursuant to NRS 361.595, of any property held in trust by him by virtue of any deed made pursuant to the provisions of this chapter, any person specified in subsection 4 is entitled to have the property reconveyed upon payment to the county treasurer of an amount equal to the taxes accrued, together with any costs, penalties and interest legally chargeable against the property. A reconveyance may not be made after expiration of the 90-day period specified in NRS 361.603 or after commencement of posting or publication of public notice pursuant to NRS 361.595.

4. Property may be reconveyed pursuant to subsection 3 to one or more of the persons specified in the following categories, or to one or more persons within a particular category, as their interests may appear of record:

(a) The owner.

(b) The beneficiary under a deed of trust.

(c) The mortgagee under a mortgage.

(d) The person to whom the property was assessed.

(e) The person holding a contract to purchase the property before its conveyance to the county treasurer.

(f) *The Director of the Department of Health and Human Services if the owner has received or is receiving any benefits from Medicaid.*

(g) The successor in interest of any person specified in this subsection.

5. Any agreement to locate, deliver, recover or assist in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter:

(a) Must:

(1) Be in writing.

(2) Be signed by one or more of the persons identified in subsection 4.

(3) Include a description of the property.

(4) Include the value of the property.

(b) Must not impose a fee that is more than 10 percent of the total value of the property.

6. The provisions of this section apply to land held in trust by a county treasurer on or after April 17, 1971.

~~[Sec. 24.]~~ *Sec. 27.* NRS 439B.360 is hereby amended to read as follows:

439B.360 1. The Director shall evaluate the effectiveness of the program established pursuant to NRS 439B.350 annually. The evaluation must include, without limitation ~~[:~~

~~(a) Determining the total number of children under the age of 13 years who reside in this State and the number of such children who have received health care services through a federal, state or local governmental program during the previous year; and~~

~~(b) Measuring]~~ *, measuring* the effectiveness of the content, form and method of dissemination of information through the program.

2. The Director shall make any necessary recommendations to improve the program based upon his evaluation.

3. On or before December 31 of each year, the Director shall provide a written report to the Interim Finance Committee concerning the results of the evaluation and any recommendations made to improve the program.

~~[Sec. 25.]~~ *Sec. 28.* NRS 449.188 is hereby amended to read as follows:

449.188 1. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups to an applicant or may suspend or revoke the license of a licensee to operate such a facility if:

(a) The applicant or licensee has been convicted of:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault with intent to kill or to commit sexual assault or mayhem;

(3) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(4) Abuse or neglect of a child or contributory delinquency;

(5) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the past 7 years;

(6) A violation of any provision of NRS 200.50955 or 200.5099;

(7) *A violation of any provision of NRS 422.450 to 422.590, inclusive;*

(8) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; or

~~[(8)]~~ *(9)* Any other felony involving the use of a firearm or other deadly weapon, within the immediately preceding 7 years; or

(b) The licensee has continued to employ a person who has been convicted of a crime listed in paragraph (a).

2. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home to an applicant or may suspend or revoke the license of a licensee to operate such an agency if the licensee has continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

~~[Sec. 26.]~~ *Sec. 29.* NRS 689A.430 is hereby amended to read as follows:

689A.430 1. An insurer shall not, when considering eligibility for coverage or making payments under a policy of health insurance, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, an insurer, *self-insured plan,* group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 , ~~[(]~~ 29 U.S.C.A.

§ 1167(1) , ~~[),]~~ service benefit plan ~~[, health maintenance organization]~~ or other organization that has issued a policy of health insurance:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any right of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a policy of health insurance,

➥ the insurer that issued the policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the policy.

4. If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, an insurer shall:

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the insurer; and

(2) The nature of the coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured and the identifying number of the policy, evidence of coverage or contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 27.]~~ *Sec. 30.* NRS 689B.300 is hereby amended to read as follows:

689B.300 1. An insurer shall not, when considering eligibility for coverage or making payments under a group health policy, consider the

availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, an insurer, *self-insured plan,* group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 , ~~[(]~~ 29 U.S.C.A. § 1167(1) , *[*~~), health maintenance organization~~*]* or other organization that has issued a group health policy:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a group health policy,

➥ the insurer that issued the policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the policy.

4. If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, an insurer shall:

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the insurer; and

(2) The nature of the coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured and the identifying number of the policy;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 28.]~~ *Sec. 31.* NRS 695A.151 is hereby amended to read as follows:

695A.151 1. A society shall not, when considering eligibility for coverage or making payments under a certificate for health benefits, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a society:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its certificate for health benefits, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any reimbursement rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a certificate for health benefits,

➥ the society that issued the health policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the certificate.

4. If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, a society that issues a certificate for health benefits, evidence of coverage or contract shall:

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the society; and

(2) The nature of the coverage that is or was provided by the society, including, without limitation, the name and address of the insured and the identifying number of the certificate for health benefits, evidence of coverage or contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 29.]~~ *Sec. 32.* NRS 695B.340 is hereby amended to read as follows:

695B.340 1. A corporation shall not, when considering eligibility for coverage or making payments under a contract, consider the availability of, or any eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a corporation:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits of a subscriber or policyholder or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its subscriber or policyholder.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a contract,

➥ the corporation that issued the contract shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the same contract.

4. If a state agency is assigned any rights of a subscriber or policyholder who is eligible for medical assistance under Medicaid, a corporation shall:

(a) Upon request of the state agency, provide to the state agency information regarding the subscriber or policyholder to determine:

(1) Any period during which the subscriber or policyholder, his spouse or dependent may be or may have been covered by a contract; and

(2) The nature of the coverage that is or was provided by the corporation, including, without limitation, the name and address of the subscriber or policyholder and the identifying number of the contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 30.]~~ *Sec. 33.* NRS 695C.163 is hereby amended to read as follows:

695C.163 1. A health maintenance organization shall not, when considering eligibility for coverage or making payments under a health care plan, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a health maintenance organization:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits due an enrollee or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its plan, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its enrollee.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a health care plan,

➥ the organization responsible for the health care plan shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the same plan.

4. If a state agency is assigned any rights of an enrollee who is eligible for medical assistance under Medicaid, a health maintenance organization shall:

(a) Upon request of the state agency, provide to the state agency information regarding the enrollee to determine:

(1) Any period during which the enrollee, his spouse or dependent may be or may have been covered by the health care plan; and

(2) The nature of the coverage that is or was provided by the organization, including, without limitation, the name and address of the enrollee and the identifying number of the health care plan;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 31.]~~ *Sec. 34.* NRS 695F.440 is hereby amended to read as follows:

695F.440 1. An organization shall not, when considering eligibility for coverage or making payments under any evidence of coverage, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care , a prepaid limited health service organization:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits due a subscriber or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its subscriber.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by any evidence of coverage,

➥ the prepaid limited health service organization that issued the evidence of coverage shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by any evidence of coverage.

4. If a state agency is assigned any rights of a subscriber who is eligible for medical assistance under Medicaid, a prepaid limited health service organization shall:

(a) Upon request of the state agency, provide to the state agency information regarding the subscriber to determine:

(1) Any period during which the subscriber, his spouse or dependent may be or may have been covered by the organization; and

(2) The nature of the coverage that is or was provided by the organization, including, without limitation, the name and address of the subscriber and the identifying number of the evidence of coverage;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim

form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 32.]~~ *Sec. 35.* This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 535.

Bill read second time.

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

Amendment No. 303.

"SUMMARY—Revises provisions governing certain educational programs for pupils in public schools. (BDR 34-581)"

"AN ACT relating to education; revising provisions relating to alternative programs for pupils at risk of dropping out of school, programs of distance education and independent study and certain other educational programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the boards of trustees of school districts to operate an alternative program for the education of pupils at risk of dropping out of high school, subject to the approval of the State Board of Education. (NRS 388.537) Section 4 of this bill authorizes school districts to operate an alternative program for all grade levels of pupils who are at risk of dropping out of school, subject to the approval of the Superintendent of Public Instruction.

Existing law provides that if a pupil enrolls in a program of distance education, the board of trustees of the school district in which the pupil resides or the governing body of the charter school in which the pupil attends school must enter into an agreement with the provider of the distance education. (NRS 388.854, 388.858) If an agreement is not filed with the Superintendent of Public Instruction for a pupil, the provider of the distance education is not eligible to receive the state apportionment of money for that pupil. (NRS 387.123, 387.124) Sections 8 and 9 of this bill revise the contents of the agreement and eliminate the requirement that the agreement be filed with the Superintendent. Sections 2 and 3 of this bill eliminate the restriction on the eligibility of a provider of the distance education to receive payment for a pupil if an agreement is not filed with the Superintendent.

Existing law provides that a pupil may enroll in a program of independent study if the school district in which the pupil is enrolled offers the program and if the pupil is enrolled in high school or is suspended or expelled from a public school. (NRS 389.155) Section 11 of this bill expands the eligibility for independent study to include all pupils who are enrolled in public schools, pupils who are enrolled in an alternative program and pupils who are enrolled in a program designed to meet the requirements for an adult standard diploma.

Existing law provides that if a pupil enrolled in high school successfully completes a college course, the pupil must be granted credit toward graduation from high school. (NRS 389.160) Section 12 of this bill provides that if a pupil enrolled in a program designed to meet the requirements for an adult standard diploma successfully completes a college course, the pupil must be granted credit towards that diploma.

Section 15 of this bill eliminates the requirement that a provider of a program of distance education submit to the Department of Education and the Legislative Bureau of Educational Accountability and Program Evaluation an annual report of the program. (NRS 388.870)

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

Section 1. NRS 385.3612 is hereby amended to read as follows:

385.3612 1. The State Board shall adopt regulations that prescribe, consistent with 20 U.S.C. §§ 6301 et seq. and the regulations adopted pursuant thereto, the manner in which pupils enrolled in:

(a) A program of distance education pursuant to NRS 388.820 to 388.874, inclusive;

(b) An alternative program for the education of pupils at risk of dropping out of ~~[high school;]~~ *school pursuant to NRS 388.537;* or

(c) A program of education that:

(1) Primarily serves pupils with disabilities; or

(2) Is operated within a:

(I) Local, regional or state facility for the detention of children;

(II) Juvenile forestry camp;

(III) Child welfare agency; or

(IV) Correctional institution,

➥ will be included within the statewide system of accountability set forth in NRS 385.3455 to 385.391, inclusive.

2. The regulations adopted pursuant to subsection 1 must also set forth the manner in which:

(a) The progress of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 will be accounted for within the statewide system of accountability; and

(b) The results of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 on

the examinations administered pursuant to NRS 389.015 and 389.550 will be reported.

Sec. 2. NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, or pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, for:

(a) Pupils in the kindergarten department.

(b) Pupils in grades 1 to 12, inclusive.

(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.

(d) Pupils who reside in the county and are enrolled part time in a program of distance education ~~[if an agreement is filed with the Superintendent of Public Instruction]~~ *provided* pursuant to NRS ~~[388.854 or 388.858, as applicable.]~~ *388.820 to 388.874, inclusive.*

(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.

(f) Pupils who are enrolled in classes pursuant to subsection 4 of NRS 386.560 and pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.580.

(g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.

(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:

(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.

(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

3. Except as otherwise provided in subsection 4 and NRS 388.700, the State Board shall establish by regulation the maximum pupil-teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of this State which is consistent with:

(a) The maintenance of an acceptable standard of instruction;

(b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and

(c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.

➥ If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil-teacher ratio exceeds the applicable maximum, and unless he finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, he shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those classes is of the total number of pupils in the district, and the State Board may direct him to withhold the quarterly apportionment entirely.

4. The provisions of subsection 3 do not apply to a charter school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 3. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts and charter schools in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school and all the funds attributable to pupils who reside in the county and are enrolled full time or part time in a program of distance education provided by another school district or a charter school. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support. ~~[If an agreement is not filed for a pupil who is enrolled in a program of distance education as required by NRS 388.854, the Superintendent of Public Instruction shall not apportion money for that pupil to the board of trustees of the school district in which the pupil resides, or the board of trustees or governing body that provides the program of distance education.]~~

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil

to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the State Board, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part time in the program . ~~[if an agreement is filed for that pupil pursuant to NRS 388.854 or 388.858, as applicable.]~~ The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

7. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, he may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 4. NRS 388.537 is hereby amended to read as follows:

388.537 1. The board of trustees of a school district may, subject to the approval of the ~~[State Board,]~~ *Superintendent of Public Instruction,* operate an alternative program for the education of pupils at risk of dropping out of ~~[high]~~ school, including pupils who ~~[:~~

~~(a) Because of extenuating circumstances, such as their being pregnant, parents, chronically ill or self-supporting, are not able to attend the classes of instruction regularly provided in high school;~~

~~(b) Are deficient in the amount of academic credit necessary to graduate with pupils their same age;~~

~~(c) Are chronically absent from high school; or~~

~~(d) Require instruction on a more personal basis than that regularly provided in high school.]~~ *are enrolled in kindergarten or grades 1 to 12, inclusive.*

2. *The board of trustees of a school district may submit to the Department, in the form prescribed by the Department, a plan to operate an alternative program.*

3. The Superintendent of Public Instruction shall review each plan to operate an alternative program submitted to the Department and approve or deny the plan. Approval by the Superintendent constitutes approval of each component of the plan for the alternative program.

4. If a plan for an alternative program is denied by the Superintendent of Public Instruction, the board of trustees of a school district may appeal the decision of the Superintendent to the State Board. The State Board may approve or deny the plan for the alternative program upon appeal.

5. An alternative program may include:

(a) A shorter school day ~~[, and]~~ *or* an opportunity for pupils to attend a longer school day ~~[,]~~ than that regularly provided in ~~[high school.]~~ *the school district. The alternative program must provide for a number of minutes of instruction that is equal to or greater than that which would be provided under a program consisting of 180 school days.*

(b) An opportunity for pupils to attend classes of instruction during any part of the calendar year.

(c) A comprehensive curriculum that includes elective classes of instruction and career and technical education.

(d) An opportunity for pupils to obtain academic credit through experience gained at work or while engaged in other activities.

(e) An opportunity for pupils to satisfy either:

(1) The ~~*[the]*~~ requirements for a regular high school diploma ~~*[.]*~~ ; or

(2) The requirements for ~~[a high school diploma for adults.]~~ *an adult standard diploma.*

(f) The provision of child care for the children of pupils.

(g) The transportation of pupils to and from classes of instruction.

(h) The ~~[temporary]~~ placement of pupils for independent study ~~[, if there are extenuating circumstances which prevent those pupils from attending the alternative program on a daily basis.~~

~~3.]~~ *pursuant to NRS 389.155, if the board of trustees of the school district determines that the pupil would benefit from such placement.*

6. The board of trustees of a school district may operate an alternative program pursuant to this section through a program of distance education pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 5. NRS 388.826 is hereby amended to read as follows:

388.826 "Distance education" means instruction which is delivered by means of video, computer, television, ~~[correspondence,]~~ or the Internet or other electronic means of communication, or any combination thereof, in such a manner that the person supervising or providing the instruction and the pupil receiving the instruction are separated geographically for a majority of the time during which the instruction is delivered.

Sec. 6. NRS 388.829 is hereby amended to read as follows:

388.829 "Program of distance education" means a program comprised of one or more courses of distance education that is designed for pupils who ~~[:~~

~~1. Are participating in a program for pupils who are at risk of dropping out of high school pursuant to NRS 388.537.~~

~~2. Are participating in a program of independent study pursuant to NRS 389.155.~~

~~3. Are enrolled in a public school that does not offer advanced or specialized courses.~~

~~4. Have a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050.~~

~~5. Would otherwise be excused from compulsory attendance pursuant to NRS 392.080.~~

~~6. Are otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675.~~

~~7. Are otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that special circumstances warrant enrollment for the pupil.~~

~~8. Are otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that special circumstances warrant enrollment for the pupil.]~~ *meet the criteria for enrollment in a program of distance education prescribed in NRS 388.850.*

Sec. 7. NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil may enroll in a program of distance education only if the pupil satisfies the requirements of any other applicable statute and the pupil:

(a) Is participating in a program for pupils at risk of dropping out of ~~[high]~~ school pursuant to NRS 388.537;

(b) Is participating in a program of independent study pursuant to NRS 389.155;

(c) Is enrolled in a public school that does not offer certain advanced or specialized courses that the pupil desires to attend;

(d) Has a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050;

(e) Would otherwise be excused from compulsory attendance pursuant to NRS 392.080;

(f) Is otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675;

(g) Is otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that the ~~[circumstances warrant enrollment for the pupil;]~~ *pupil will benefit from the program;* or

(h) Is otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that the ~~[circumstances warrant enrollment for the pupil.]~~ *pupil will benefit from the program.*

2. In addition to the eligibility for enrollment set forth in subsection 1, a pupil must satisfy the qualifications and conditions for enrollment in a program of distance education adopted by the State Board pursuant to NRS 388.874.

3. A child who is exempt from compulsory attendance and receiving equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070 is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether he is otherwise eligible for enrollment pursuant to subsection 1.

4. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to ~~[62F.140,]~~ *62F.150,* inclusive, and 392.251 to 392.271, inclusive.

5. If a pupil is eligible for enrollment in a program of distance education pursuant to paragraph (c) of subsection 1, he may enroll in the program of distance education only to take those advanced or specialized courses that are not offered at the public school he otherwise attends.

Sec. 8. NRS 388.854 is hereby amended to read as follows:

388.854 1. Except as otherwise provided in this subsection, before a pupil may enroll full time or part time in a program of distance education that is provided by a school district other than the school district in which the pupil resides, the pupil must obtain the written permission of the board of trustees of the school district in which the pupil resides. Before a pupil who is enrolled in a public school of a school district may enroll part time in a program of distance education that is provided by a charter school, the pupil must obtain the written permission of the board of trustees of the school

district in which the pupil resides. A pupil who enrolls full time in a program of distance education that is provided by a charter school is not required to obtain the approval of the board of trustees of the school district in which the pupil resides.

2. If the board of trustees of a school district grants permission pursuant to subsection 1, the board of trustees shall enter into a written agreement with the board of trustees or governing body, as applicable, that provides the program of distance education. A separate agreement must be prepared for each year that a pupil enrolls in a program of distance education. ~~[The written agreement must:~~

~~(a) Contain a statement prepared by the board of trustees of the school district in which the pupil resides indicating that the board of trustees understands that the Superintendent of Public Instruction will make appropriate adjustments in the apportionments to the school district pursuant to NRS 387.124 to account for the pupil's enrollment in the program of distance education;~~

~~(b) If the pupil plans to enroll part time in the program of distance education, contain a statement prepared by the board of trustees of the school district in which the pupil resides and the board of trustees or governing body that provides the program of distance education setting forth the percentage of the total time services will be provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides;~~

~~(c) Be signed by the board of trustees of the school district in which the pupil resides and the board of trustees or governing body that provides the program of distance education; and~~

~~(d) Include any other information required by the State Board by regulation.~~

~~3. On or before the last day of the first school month of each school year or March 1 of each school year, as applicable for the semester of enrollment, a written agreement must be filed with the Superintendent of Public Instruction for each pupil who is enrolled full time in a program of distance education provided by a school district other than the school district in which the pupil resides. On or before the last day of the first school month of each school year or March 1 of each school year, as applicable for the semester of enrollment, a written agreement must be filed with the Superintendent of Public Instruction for each pupil who is enrolled in a public school of the school district and who is enrolled part time in a program of distance education provided by a charter school. If an agreement is not filed for a pupil who is enrolled in a program of distance education as required by this section, the Superintendent of Public Instruction shall not apportion money for that pupil to the board of trustees of the school district in which the pupil~~

~~resides, or the board of trustees or governing body that provides the program of distance education.]~~

Sec. 9. NRS 388.858 is hereby amended to read as follows:

388.858 1. If a pupil is enrolled in a charter school, he may enroll full time in a program of distance education only if the charter school in which he is enrolled provides the program of distance education.

2. Before a pupil who is enrolled in a charter school may enroll part time in a program of distance education that is provided by a school district or another charter school, the pupil must obtain the written permission of the governing body of the charter school in which the pupil is enrolled.

3. If the governing body of a charter school grants permission pursuant to subsection 2, the governing body shall enter into a written agreement with the board of trustees or governing body, as applicable, that provides the program of distance education. A separate agreement must be prepared for each year that a pupil enrolls in a program of distance education. ~~[The written agreement must:~~

~~(a) Contain a statement prepared by the governing body of the charter school in which the pupil is enrolled indicating that the governing body understands that the Superintendent of Public Instruction will make appropriate adjustments in the apportionments to the charter school pursuant to NRS 387.124 to account for the pupil's enrollment in the program of distance education;~~

~~(b) Contain a statement prepared by the governing body of the charter school in which the pupil is enrolled and the board of trustees or governing body that provides the program of distance education setting forth the percentage of the total time services will be provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides;~~

~~(c) Be signed by the governing body of the charter school in which the pupil is enrolled and the board of trustees or governing body that provides the program of distance education; and~~

~~(d) Include any other information required by the State Board by regulation.~~

~~4. On or before the last day of the first school month of each school year or March 1 of each school year, as applicable for the semester of enrollment, a written agreement must be filed with the Superintendent of Public Instruction for each pupil who is enrolled in a charter school and who is enrolled part time in a program of distance education provided by a school district or another charter school. If an agreement is not filed for such a pupil, the Superintendent of Public Instruction shall not apportion money for that pupil to the governing body of the charter school in which the pupil is enrolled, or the board of trustees or governing body that provides the program of distance education.]~~

Sec. 10. NRS 388.866 is hereby amended to read as follows:

388.866 1. The board of trustees of a school district or the governing body of a charter school that provides a program of distance education shall ensure that, for each course offered through the program, a teacher:

(a) Provides the work assignments to each pupil enrolled in the course that are necessary for the pupil to complete the course; ~~[and]~~

(b) Meets or otherwise communicates with the pupil at least once each week during the course to discuss the pupil's progress ~~[.]~~ *; and*

(c) Enters into a written agreement with the pupil and his parent or legal guardian outlining the objectives of the course, the timeline for completion of the course and the method by which the progress of the pupil will be assessed.

2. If a course offered through a program of distance education is a core academic subject, as defined in NRS 389.018, the teacher who fulfills the requirements of subsection 1 must be a:

(a) Licensed teacher; or

(b) Teacher, instructor or professor who provides instruction at a community college or university. Such a teacher, instructor or professor may only be assigned to a course of distance education in the subject area for which he provides instruction at a community college or university.

Sec. 11. NRS 389.155 is hereby amended to read as follows:

389.155 1. The State Board shall, by regulation, establish a program pursuant to which a pupil ~~[enrolled full]~~ *:*

(a) Enrolled full time in ~~[high school or a pupil who]~~ *public school;*

(b) Enrolled in an alternative program pursuant to NRS 388.537;

(c) Enrolled in a program designed to meet the requirements for an adult standard diploma; or

(d) Except as otherwise provided in subsection 4, who has been suspended or expelled from a public school ,

➥ may complete any required or elective course by independent study outside of the normal classroom setting. A program of independent study provided pursuant to this section may be offered through a program of distance education pursuant to NRS 388.820 to 388.874, inclusive.

2. The regulations must require that:

(a) The teacher of the course assign to the pupil the work assignments necessary to complete the course; and

(b) ~~[The]~~ *For each course in which the pupil is enrolled, the* pupil and *the* teacher *of the course* meet or otherwise communicate with each other at least once each week ~~[during]~~ *for the duration of* the course to discuss the pupil's progress.

3. ~~[Except as otherwise provided in this subsection, the]~~ *The* board of trustees of a school district may, in accordance with the regulations adopted pursuant to subsections 1 and 2, provide for independent study by *the* pupils ~~[:~~

~~(a) Enrolled full time in high schools in its district. A board of trustees that chooses to allow such study may provide that:~~

~~(1) The pupils participating in the independent study be given instruction individually or in a group.~~

~~(2) The independent study be offered during the regular school day.~~

~~(b) Who have been suspended or expelled from a public school.]~~ *described in subsection 1.*

4. A program of independent study offered pursuant to this ~~[paragraph]~~ *section* must not allow a pupil *who has been suspended or expelled from a public school* to attend that public school during the period of his suspension or expulsion.

Sec. 12. NRS 389.160 is hereby amended to read as follows:

389.160 1. A pupil enrolled in high school, including, without limitation, a pupil enrolled in grade 9, 10, 11 or 12 in a charter school ~~[,]~~ *or a pupil enrolled in a program designed to meet the requirements for an adult standard diploma,* who successfully completes a course of education offered by a community college or university in this State which has been approved pursuant to subsection 2, must be allowed to apply the credit received for the course so completed to the total number of credits required for graduation from *the* high school or the charter school in which the pupil is enrolled ~~[.]~~ *or the credits required for receipt of an adult standard diploma, as applicable.*

2. With the approval of the State Board, the board of trustees of each county school district and the governing body of each charter school shall prescribe the courses for which credits may be received pursuant to subsection 1, including occupational courses for academic credit, and the amount of credit allowed for the completion of those courses.

Sec. 13. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070; or

(b) Enroll in a program of independent study provided pursuant to ~~[paragraph (b) of subsection 3 of]~~ NRS 389.155 *for pupils who have been suspended or expelled from public school* or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the *requirements of the* applicable ~~[requirements.]~~ *program.*

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any

public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070; or

(b) Enroll in a program of independent study provided pursuant to ~~[paragraph (b) of subsection 3 of]~~ NRS 389.155 *for pupils who have been suspended or expelled from public school* or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the *requirements of the* applicable ~~[requirements.]~~ *program.*

➥ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of his suspension or expulsion, the pupil must:

(a) Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070; or

(b) Enroll in a program of independent study provided pursuant to ~~[paragraph (b) of subsection 3 of]~~ NRS 389.155 *for pupils who have been suspended or expelled from public school* or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the *requirements of the* applicable ~~[requirements.]~~ *program.*

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 14. NRS 392.4675 is hereby amended to read as follows:

392.4675 1. Except as otherwise provided in this section, a pupil who is suspended or expelled from:

(a) Any public school in this State pursuant to NRS 392.466; or

(b) Any school outside of this State for the commission of any act which, if committed within this State, would be a ground for suspension or expulsion from public school pursuant to NRS 392.466,

➥ is ineligible to attend any public school in this State during the period of that suspension or expulsion.

2. A school district or a charter school, if the charter school offers the applicable program, may allow a pupil who is ineligible to attend a public school pursuant to this section to enroll in:

(a) An alternative program for the education of pupils at risk of dropping out of ~~[high school;]~~ *school provided pursuant to NRS 388.537;*

(b) A program of independent study provided pursuant to ~~[paragraph (b) of subsection 3 of NRS 389.155, if he qualifies for enrollment and is~~

~~accepted for enrollment in accordance with the applicable requirements;]~~ *NRS 389.155 for pupils who have been suspended or expelled from public school;*

(c) A program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive *;* ~~[, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements;]~~ or

(d) Any program of instruction offered pursuant to the provisions of NRS 388.550 ~~[.]~~ ,

➥ *if he qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.* A school district or charter school may conduct an investigation of the background of any such pupil to determine if the educational needs of the pupil may be satisfied without undue disruption to the program. If an investigation is conducted, the board of trustees of the school district or the governing body of the charter school shall, based on the results of the investigation, determine if the pupil will be allowed to enroll in such a program.

3. The provisions of subsections 1 and 2 do not prohibit a pupil from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 15. NRS 388.870 is hereby repealed.

Sec. 16. This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTION

388.870 Contents and submission of annual report by provider of distance education program. On or before November 1 of each year, the board of trustees of a school district or the governing body of a charter school that provides a program of distance education shall submit to the Department and to the Legislative Bureau of Educational Accountability and Program Evaluation a written report that contains a summary of the program for the immediately preceding school year which includes, without limitation:

1. A description of the manner in which the program was carried out;
2. The expenditures made for the program;
3. The number of pupils who were enrolled full time in the program and the number of pupils who were enrolled part time in the program;
4. If available, a description of the reasons why pupils enrolled in the program;
5. The number of pupils who dropped out of the program, if any;
6. A description of any disciplinary measures taken against pupils who were enrolled in the program; and

7. An analysis of the academic achievement and performance of the pupils who were enrolled in the program before and after the pupils participated in the program.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 552.

Bill read second time.

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

Amendment No. 417.

"SUMMARY—Requires the disclosure of certain information relating to health care and revises provisions governing health maintenance organizations. (BDR 38-1365)"

"AN ACT relating to health care; requiring certain health maintenance organizations to ~~[enter into contracts with hospitals in this State that are willing to accept the rate of reimbursement offered by Medicaid;]~~ *report instances in which persons who are under the age of 18 years are required to receive medical services from a provider of health care that is not located in this State;* requiring the Department of Health and Human Services to establish a program to provide certain information to the general public relating to hospitals in this State; requiring the Division of Insurance of the Department of Business and Industry to establish a program to provide certain information to the general public relating to health care plans in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Department of Health and Human Services to contract with certain health maintenance organizations to provide managed care for recipients of Medicaid and participants in the Children's Health Insurance Program. (NRS 422.273) Section 1 of this bill requires a health maintenance organization that has entered into such a contract with the Department to ~~[contract with any willing hospital in this State that will accept the reimbursement rate offered under the State Plan for Medicaid.]~~ *report to the Department certain instances in which persons who are under the age of 18 years are required to receive medical services from a provider of health care that is not located in this State.*

Existing law provides for the planning for health care in this State, including the promotion of equal access to quality health care at a reasonable cost. (Chapter 439A of NRS) Section 7 of this bill requires the Department of Health and Human Services to establish a program to increase public awareness of health care information concerning the hospitals in this State, including information concerning the average charges imposed and the quality of services provided by the hospitals in this State. Section 8 of this

bill requires the hospitals in this State to submit the information for the program and requires the Department to collect and maintain that information. Section 9 of this bill requires the Department to establish and maintain an Internet website which provides information included in the program to the general public.

Existing law provides for protections for consumers of health care. (NRS 679B.510-679B.560) Section 18 of this bill requires the Division of Insurance of the Department of Business and Industry to establish a program to increase public awareness of health care plans available in this State. Section 19 of this bill requires the Division to establish and maintain an Internet website which provides information included in the program to the general public. Section 22 of this bill authorizes insurers of health care services to participate in the program.

Under existing law, the Director of the Office for Consumer Health Assistance must provide information to consumers concerning health care plans in this State and maintain an Internet website which includes certain information concerning prescription drug programs and pharmacies. (NRS 223.560) Section 15 of this bill requires the Director to include on the website links to the websites maintained by the Department of Health and Human Services and the Division of Insurance of the Department of Business and Industry for the programs of public awareness.

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

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

~~[1.]~~ *Each health maintenance organization that has entered into a contract with the Department pursuant to NRS 422.273 for a Medicaid managed care program shall* ~~[contract with any hospital in this State that:~~

~~*(a) Wishes to contract with the health maintenance organization;*~~

~~*(b) Meets the terms and conditions established by the health maintenance organization for providing health care to its insureds; and*~~

~~*(c) Is willing to accept as payment in full the reimbursement rates set forth in the State Plan for Medicaid,*~~

~~*→ for the provision of services and goods to persons under the age of 18 years. The health maintenance organization must include such a hospital on any list of providers of health care given by the health maintenance organization to its insureds.*~~

~~*2. A health maintenance organization that contracts with a hospital pursuant to subsection 1 shall not contract with a hospital located outside of this State for the same services or goods that are included in the contract entered into with the hospital in this State.*~~

~~*3. As used in this section, "hospital" has the meaning ascribed to it in NRS 449.012.]*~~ *, on or before June 30 of each year, submit to the Department a report of each instance in which a person under the age of 18 years who is a recipient of Medicaid or insurance pursuant to the Children's Health*

Insurance Program is required to leave the State of Nevada for the provision of services and goods. The report must include the reason for requiring the person to leave the State for receipt of such services and goods, including, without limitation, that the service or good is not available in this State.

Sec. 2. ~~[NRS 422.273 is hereby amended to read as follows:~~

~~422.273 1. For any Medicaid managed care program established in the State of Nevada, the Department shall contract only with a health maintenance organization that has:~~

~~(a) Negotiated in good faith with a federally qualified health center to provide health care services for the health maintenance organization;~~

~~(b) Negotiated in good faith with the University Medical Center of Southern Nevada to provide inpatient and ambulatory services to recipients of Medicaid; [and]~~

~~(c) Negotiated in good faith with the University of Nevada School of Medicine to provide health care services to recipients of Medicaid [.]~~ *; and*

~~*(d) Contracted with each willing hospital in accordance with the provisions of section 1 of this act, if applicable.*~~

~~2. Nothing in this section shall be construed as exempting a federally qualified health center, the University Medical Center of Southern Nevada or the University of Nevada School of Medicine from the requirements for contracting with the health maintenance organization.~~

~~3. During the development and implementation of any Medicaid managed care program, the Department shall cooperate with the University of Nevada School of Medicine by assisting in the provision of an adequate and diverse group of patients upon which the school may base its educational programs.~~

~~4. The University of Nevada School of Medicine may establish a nonprofit organization to assist in any research necessary for the development of a Medicaid managed care program, receive and accept gifts, grants and donations to support such a program and assist in establishing educational services about the program for recipients of Medicaid.~~

~~5. For the purpose of contracting with a Medicaid managed care program pursuant to this section, a health maintenance organization is exempt from the provisions of NRS 695C.123.~~

~~6. The provisions of this section *and section 1 of this act* apply to any managed care organization, including a health maintenance organization, that provides health care services to recipients of Medicaid under the State Plan for Medicaid or the Children's Health Insurance Program pursuant to a contract with the Division. Such a managed care organization or health maintenance organization is not required to establish a system for conducting external reviews of final adverse determinations in accordance with chapter 695B, 695C or 695G of NRS. This subsection does not exempt such a managed care organization or health maintenance organization for services provided pursuant to any other contract.~~

~~7. As used in this section, unless the context otherwise requires:~~

~~(a) "Federally-qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).~~

~~(b) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.~~

~~(c) "Managed care organization" has the meaning ascribed to it in NRS 695C.050.]~~ *(Deleted by amendment.)*

Sec. 3. Chapter 439A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 10, inclusive, of this act.

Sec. 4. *As used in sections 4 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 and 6 of this act have the meanings ascribed to them in those sections.*

Sec. 5. *"Diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third party health care plans.*

Sec. 6. *"Program" means the program that is established by the Department pursuant to section 7 of this act to increase public awareness of health care information concerning the hospitals in this State.*

Sec. 7. *1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the average charges for that care.*

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) The 50 most common diagnosis-related groups for the inpatients of each hospital in this State, including, without limitation, the number of patients discharged, the average length of stay and the average charges for those services as prepared pursuant to NRS 449.243;

(b) To the extent that such information is otherwise available to the public, the quality of care provided by each hospital in this State, as determined by applying uniform measures of quality, including, without limitation, the measures of quality endorsed by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services , *a quality improvement organization of the Centers for Medicare and Medicaid Services* *and the Joint Commission on Accreditation of Healthcare Organizations;*

(c) How consistently each hospital in this State follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients ~~[;]~~ , *which must be based on the patient safety guidelines developed by the National Quality Forum or its successor organization; and*

(d) Any other information that is currently collected by a governmental entity in this State and available to the public relating to the average charges imposed and the quality of the services provided by the hospitals in this State that the Department determines is useful to consumers.

Sec. 8. *The Department shall, by regulation:*

1. Prescribe the information that each hospital in this State must submit to the Department for the program as set forth in section 7 of this act, which must include the average charges imposed by the hospitals and measures of quality for hospitals as prescribed in subsection 2 of section 7 of this act; and

2. Require each hospital to:

(a) Provide the information prescribed in subsection 1 in the format required by the Department; and

(b) Report that information for inpatients.

Sec. 9. *1. The Department shall establish and maintain an Internet website that includes the information concerning the average charges imposed and the quality of the services provided by the hospitals in this State as required by the program pursuant to section 7 of this act. The information must be presented in a manner that:*

(a) Allows a person to view and compare the information for the hospitals by:

(1) Geographic location of each hospital; and

(2) Diagnosis-related group;

(b) Allows a person to view and compare the information relating to the quality of care provided by each hospital in this State pursuant to subsection 2 of section 7 of this act; and

(c) Is readily accessible and understandable by a member of the general public.

2. The Department shall:

(a) Publicize the availability of the Internet website;

(b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient of a hospital;

(e) Post a disclaimer on the Internet website indicating that the information contained on the website is aggregated information provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the current charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same as the average charge posted on the Department's website for that hospital; and

(f) Upon request, make the information that is contained on the Internet website available in printed form.

3. The Department shall ensure that the information it provides pursuant to this section is aggregated so as not to reveal the identity of a specific inpatient of a hospital.

Sec. 10. *In carrying out the provisions of sections 4 to 10, inclusive, of this act, the Department may contract, through competitive bidding, with the Nevada System of Higher Education or any appropriate, independent and qualified person or entity to analyze the information collected and maintained by the Department pursuant to sections 4 to 10, inclusive, of this act. Such a contractor shall not release or publish or otherwise use any information made available to it pursuant to the contract except as required to carry out the provisions of sections 4 to 10, inclusive, of this act.*

Sec. 11. NRS 439A.020 is hereby amended to read as follows:

439A.020 The purposes of this chapter are to:

1. Promote equal access to quality health care at a reasonable cost;
2. Promote an adequate supply and distribution of health resources;
3. Promote uniform, effective methods of delivering health care;
4. Promote and encourage the adequate distribution of health ~~[and]~~ care facilities and man power;
5. Promote and encourage the effective use of methods for controlling increases in the cost of health care;
6. Encourage participation in health planning by members of the several health professions, representatives of institutions and agencies interested in the provision of health care and the reduction of the cost of such care, and the general public;
7. Utilize the viewpoint of the general public for making decisions;
8. *Provide information to the general public concerning the average charges imposed and the quality of the services provided by the hospitals in this State;*
9. Encourage public education regarding proper personal health care and methods for the effective use of available health services; and

~~[9.]~~ *10.* Promote a program of technical assistance to purchasers to contain effectively the cost of health care, including:

(a) Providing information to purchasers regarding the charges made by practitioners.

(b) Training purchasers to negotiate successfully for a policy of health insurance.

(c) Conducting studies and providing other information about measures to assist purchasers in containing the cost of health care.

Sec. 12. NRS 439B.400 is hereby amended to read as follows:

439B.400 *1.* Each hospital in this State shall maintain and use a uniform list of billed charges for that hospital for units of service or goods provided to all inpatients. A hospital may not use a billed charge for an inpatient that is different than the billed charge used for another inpatient for the same service or goods provided. This section does not restrict the ability of a hospital or other person to negotiate a discounted rate from the hospital's

billed charges or to contract for a different rate or mechanism for payment of the hospital.

2. Each hospital in this State shall make available to the Department the uniform list of billed charges for inclusion in the program established by the Department pursuant to section 7 of this act.

Sec. 13. NRS 449.243 is hereby amended to read as follows:

449.243 Every hospital licensed pursuant to the provisions of NRS 449.001 to 449.240, inclusive:

1. May, except as otherwise provided in subsection 2, utilize the Uniform Billing and Claims Forms established by the American Hospital Association.

2. Shall, except as otherwise provided in this section, on its billings to patients, itemize, on a daily basis, all charges for services, and charges for equipment used and the supplies and medicines provided incident to the provision of those services with specificity and in language that is understandable to an ordinary lay person. This itemized list must be timely provided after the patient is discharged at no additional cost.

3. Except as otherwise provided in this subsection, if a patient is charged a rate, pursuant to a contract or other agreement, that is different than the billed charges, ~~[the hospital]~~ shall provide to the patient either:

(a) A copy of the billing prepared pursuant to subsection 2;

(b) A statement specifying the agreed rate for the services; or

(c) If the patient is not obligated to pay any portion of the bill, a statement of the total charges.

➥ In any case, the hospital shall include on the billing or statement any copayment or deductible for which the patient is responsible. The hospital shall answer any questions regarding the bill.

4. If the hospital is paid by the insurer of a patient a rate that is based on the number of persons treated and not on the services actually rendered, ~~[the hospital]~~ shall, upon the discharge of the patient, advise the patient of the status of any copayment or deductible for which the patient is responsible.

5. Shall prepare a summary of *the average* charges for common services for patients admitted to the hospital and make it available to the public. *The summary must be submitted to the Department of Health and Human Services for inclusion in the program established by the Department pursuant to section 7 of this act.*

6. Shall provide to any patient upon request a copy of the billing prepared pursuant to subsection 2.

Sec. 14. NRS 449.520 is hereby amended to read as follows:

449.520 1. On or before October 1 of each year, the Director shall prepare and transmit to the Governor, the Legislative Committee on Health Care and the Interim Finance Committee a report of the Department's operations and activities for the preceding fiscal year.

2. The report prepared pursuant to subsection 1 must include:

(a) Copies of all summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive, together with such facts, suggestions and policy recommendations as the Director deems necessary;

(b) A summary of the trends of the audits of hospitals in this State that the Department required or performed during the previous year;

(c) An analysis of the trends in the costs, expenses and profits of hospitals in this State;

(d) An analysis of the corporate home office allocation methodologies of hospitals in this State;

(e) An examination and analysis of the manner in which hospitals are reporting the information that is required to be filed pursuant to NRS 449.490, including, without limitation, an examination and analysis of whether that information is being reported in a standard and consistent manner, which fairly reflect the operations of each hospital;

(f) A review and comparison of the policies and procedures used by hospitals in this State to provide discounted services to, and to reduce charges for services provided to, persons without health insurance; ~~[and]~~

(g) A review and comparison of the policies and procedures used by hospitals in this State to collect unpaid charges for services provided by the hospitals ~~[.]~~ *; and*

(h) A summary of the status of the program that is established pursuant to section 7 of this act to increase public awareness of health care information concerning the hospitals in this State, including, without limitation, the information that was posted in the preceding fiscal year on the Internet website maintained for that program pursuant to section 9 of this act.

3. The Legislative Committee on Health Care shall develop a comprehensive plan concerning the provision of health care in this State which includes, without limitation:

(a) A review of the health care needs in this State as identified by state agencies, local governments, providers of health care and the general public; and

(b) A review of the capital improvement reports submitted by hospitals pursuant to subsection 2 of NRS 449.490.

Sec. 15. NRS 223.560 is hereby amended to read as follows:

223.560 The Director shall:

1. Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

2. Assist consumers and injured employees in understanding their rights and responsibilities under health care plans and policies of industrial insurance;

3. Identify and investigate complaints of consumers and injured employees regarding their health care plans and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

(a) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(b) Providing counseling and assistance to consumers and injured employees concerning health care plans and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans and policies of industrial insurance in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services; and

9. Establish and maintain an Internet website which includes:

(a) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; ~~[and]~~

(b) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328 ~~[.]~~ *;*

(c) A link to the website established and maintained pursuant to section 9 of this act which provides information to the general public concerning the average charges imposed and the quality of the services provided by the hospitals in this State; and

(d) A link to the website established and maintained pursuant to section 19 of this act which provides information to the general public concerning the health care plans available in this State.

Sec. 16. Chapter 679B of NRS is hereby amended by adding thereto the provisions set forth as sections 17 to 22, inclusive, of this act.

Sec. 17. *"Program" means the program that is established by the Division pursuant to section 18 of this act to increase public awareness of health care plans available in this State.*

Sec. 18. *1. The Division shall establish and maintain a program to increase public awareness of health care plans available in this State. The program must be designed to assist consumers of health care with comparing health care plans that are available in this State and the average charges for those health care plans.*

2. The program must include, without limitation, the collection, maintenance and provision of information, to the extent available, that:

(a) Educates consumers of health care concerning the health care plans in this State;

(b) Describes how a consumer may acquire a health care plan;

(c) Describes the factors which must be considered in the cost of purchasing a health care plan, including, without limitation, the comparison of premiums and other expenses charged for a variety of those plans;

(d) Assists consumers of health care with understanding how a claim for health insurance is processed, including, without limitation, any forms required and any information pertaining to procedures required by federal or state statute or regulation; and

(e) Describes how to resolve a complaint against an insurer.

Sec. 19. *1. The Division shall establish and maintain an Internet website that includes the information concerning the health care plans in this State that are included in the program pursuant to section 18 of this act. The information must be presented in a manner that:*

(a) Allows a person to view and compare the information for health care plans;

(b) Allows a person to view and compare the information relating to the cost of health care plans; and

(c) Is readily accessible and understandable by a member of the general public.

2. The Division shall:

(a) Update the information contained on the Internet website at least quarterly;

(b) Ensure that the information contained on the Internet website is accurate and reliable;

(c) Post a disclaimer on the Internet website indicating that the information contained on the website is aggregated information provided to assist with the comparison of health care plans and is not a guarantee by the Division as to the cost of health care plans available in this State or the quality of the services offered by the insurers, including, without limitation, an explanation that the actual amount charged to a person by a particular insurer may not be the same as the average charge posted on the Division's website for that insurer; and

(d) Upon request, make the information that is contained on the Internet website available in printed form.

Sec. 20. *1. The Commissioner shall, by regulation:*

(a) Prescribe the information that an insurer who wishes to participate in the program may submit to the Commissioner; and

(b) Prescribe the form for submission of such information.

2. The Commissioner may, through competitive bidding, contract with the Nevada System of Higher Education or any appropriate, independent and qualified person or entity to analyze the information collected and

maintained by the Commissioner pursuant to sections 17 to 22, inclusive, of this act. Such a contractor shall not release or publish or otherwise use any information made available to it pursuant to the contract except as required to carry out the provisions of sections 17 to 22, inclusive, of this act.

Sec. 21. *In carrying out the provisions of sections 17 to 22, inclusive, of this act, the Division shall:*

1. Work in cooperation with the Director of the Office for Consumer Health Assistance.

2. Work in cooperation with the Department of Health and Human Services in the establishment and maintenance of the program, including, without limitation, providing consumers of health care with a link on the Division's website to access the Internet website of the Department of Health and Human Services maintained pursuant to section 9 of this act.

Sec. 22. *The provisions of sections 17 to 22, inclusive, of this act do not require an insurer to participate in the program or submit information for the sole purpose of inclusion on the Internet website maintained pursuant to section 19 of this act.*

Sec. 23. NRS 679B.510 is hereby amended to read as follows:

679B.510 As used in NRS 679B.510 to 679B.560, inclusive, *and sections 17 to 22, inclusive, of this act* unless the context otherwise requires, the words and terms defined in NRS 679B.520, 679B.530 and 679B.540 *and section 17 of this act* have the meanings ascribed to them in those sections.

Sec. 24. NRS 679B.550 is hereby amended to read as follows:

679B.550 The Division shall:

1. Establish a toll-free telephone service for receiving inquiries and complaints from consumers of health care in this State concerning health care plans;

2. Provide answers to inquiries of consumers of health care concerning health care plans, or refer the consumers to the appropriate agency, department or other entity that is responsible for addressing the specific type of inquiry;

3. Refer consumers of health care to the appropriate agency, department or other entity that is responsible for addressing the specific type of complaint of the consumer;

4. Provide counseling and assistance to consumers of health care concerning health care plans;

5. Educate consumers of health care concerning health care plans in this State ~~[;]~~ *, including, without limitation, by publicizing the availability of the Internet website maintained by the Division pursuant to section ~~[18]~~ 19 of this act;* and

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Division pursuant to this section.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 10.

Resolution read second time.

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

Amendment No. 350.

"SUMMARY—Expresses support for the designation of trails for off-highway vehicles by certain federal agencies. (BDR R-1350)"

"SENATE JOINT RESOLUTION—Expressing support for the designation of trails for off-highway vehicles by certain federal agencies."

WHEREAS, Approximately 86 percent of Nevada's land is federally owned, with the Bureau of Land Management managing 68 percent and the United States Forest Service managing 8 percent; and

WHEREAS, Recreation is the fastest growing use of public lands, and as the population of Nevada and our nation continues to grow, the demand for recreational use of and access to public lands also grows; and

WHEREAS, Nevada lacks a comprehensive designated route system for the estimated 400,000 off-highway vehicles in this State which are part of the lifestyle for many Nevadans; and

WHEREAS, The explosion of off-highway vehicle use across the nation and conflicts with other land uses have often led to undesirable results, such as serious physical injuries, the spread of noxious and invasive weeds, environmental damage and litigation or the closing of federal lands to off-highway vehicles; and

WHEREAS, The Bureau of Land Management and the United States Forest Service recognize the need to improve the management of off-highway vehicle use, to reduce conflicts and resource impacts, and to minimize the soil, watershed, wildlife and habitat impacts from off-highway vehicles to protect our public lands while continuing to provide for a wide variety of recreational opportunities; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature hereby supports the actions and policies of the Bureau of Land Management and the United States Forest Service which designate specific roads, trails and limited-use areas for use by off-highway vehicles and hereby urges the Bureau of Land Management and the United States Forest Service to carry out those actions and policies in cooperation with other groups, including local law enforcement, hunting, hiking, biking, ranching and conservation groups and others who work on issues involving Nevada's backcountry; and be it further

RESOLVED, That the Nevada Legislature urges the Bureau of Land Management and the United States Forest Service to require that

off-highway vehicles stay on existing roads and trails and not pioneer unauthorized roads and trails; and be it further

RESOLVED, That the Bureau of Land Management and the United States Forest Service are encouraged to enter into interagency agreements with federal, state and local law enforcement agencies to use resources efficiently and to ensure sufficient enforcement of policies and regulations; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Secretaries of Agriculture and the Interior, the Chief of the United States Forest Service, the Director of the Bureau of Land Management and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Assembly Bill No. 27.

Bill read second time and ordered to third reading.

Assembly Bill No. 35.

Bill read second time and ordered to third reading.

Assembly Bill No. 100.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 59 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 185 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 233 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 239 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 276 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 552 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Nolan moved that Senate Bills Nos. 173, 319, 392, 450; Assembly Bills Nos. 5, 264 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senators Coffin and Nolan.

Motion carried.

Senator Titus moved that Senate Bill No. 385 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Titus.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 83.

Bill read third time.

Roll call on Senate Bill No. 83:

YEAS—21.

NAYS—None.

Senate Bill No. 83 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 84.

Bill read third time.

Roll call on Senate Bill No. 84:

YEAS—21.

NAYS—None.

Senate Bill No. 84 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 137.

Bill read third time.

Roll call on Senate Bill No. 137:

YEAS—20.

NAYS—Carlton.

Senate Bill No. 137 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 145.
Bill read third time.
Roll call on Senate Bill No. 145:
YEAS—21.
NAYS—None.

Senate Bill No. 145 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 159.
Bill read third time.
Roll call on Senate Bill No. 159:
YEAS—21.
NAYS—None.

Senate Bill No. 159 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 200.
Bill read third time.
Roll call on Senate Bill No. 200:
YEAS—21.
NAYS—None.

Senate Bill No. 200 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 263.
Bill read third time.
Roll call on Senate Bill No. 263:
Yeas—17.
Nays—Care, Carlton, Horsford, Titus—4.

Senate Bill No. 263 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 272.
Bill read third time.
Roll call on Senate Bill No. 272:
YEAS—16.
NAYS—Care, Carlton, Titus, Wiener, Woodhouse—5.

Senate Bill No. 272 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 274.
Bill read third time.
Senator Lee moved that Senate Bill No. 274 be taken from the General File and placed on the Secretary's desk.
Remarks by Senator Lee.
Motion carried.

Senate Bill No. 306.
Bill read third time.
Roll call on Senate Bill No. 306:
YEAS—21.
NAYS—None.

Senate Bill No. 306 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 315.
Bill read third time.
Roll call on Senate Bill No. 315:
YEAS—20.
NAYS—Carlton.

Senate Bill No. 315 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 369.
Bill read third time.
Roll call on Senate Bill No. 369:
Yeas—21.
Nays—None.

Senate Bill No. 369 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 409.
Bill read third time.
Roll call on Senate Bill No. 409:
YEAS—14.
NAYS—Beers, Cegavske, Hardy, Heck, McGinness, Raggio, Washington—7.

Senate Bill No. 409 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 410.
Bill read third time.
Roll call on Senate Bill No. 410:
YEAS—21.
NAYS—None.

Senate Bill No. 410 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 447.
Bill read third time.
Roll call on Senate Bill No. 447:
YEAS—21.
NAYS—None.

Senate Bill No. 447 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 451.
Bill read third time.
Roll call on Senate Bill No. 451:
YEAS—21.
NAYS—None.

Senate Bill No. 451 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 457.
Bill read third time.
Roll call on Senate Bill No. 457:
YEAS—21.
NAYS—None.

Senate Bill No. 457 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 497.
Bill read third time.
Roll call on Senate Bill No. 497:
YEAS—20.
NAYS—Carlton.

Senate Bill No. 497 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 517.
Bill read third time.
Roll call on Senate Bill No. 517:
YEAS—21.
NAYS—None.

Senate Bill No. 517 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 153.
Bill read third time.
Roll call on Assembly Bill No. 153:
YEAS—21.
NAYS—None.

Assembly Bill No. 153 having received a constitutional majority, Mr. President pro Tempore declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 192.
Bill read third time.
Roll call on Assembly Bill No. 192:
YEAS—21.
NAYS—None.

Assembly Bill No. 192 having received a constitutional majority, Mr. President pro Tempore declared it passed.
Bill ordered transmitted to the Assembly.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 310, 543, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Mr. President pro Tempore:

Your Committee on Human Resources and Education, to which were referred Assembly Bills Nos. 75, 294, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Human Resources and Education, to which was referred Senate Bill No. 221, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Mr. President pro Tempore:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 18, 30, 152, 482, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 72, 103, 237, 277, 291, 298, 381, 438, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

Mr. President pro Tempore:

Your Committee on Legislative Operations and Elections, to which were referred Senate Bills Nos. 210, 425, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA K. CEGAVSKE, *Chair*

Mr. President pro Tempore:

Your Committee on Natural Resources, to which was referred Senate Bill No. 275, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEAN A. RHOADS, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 105.

Bill read second time.

Amendment No. 337.

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

"SUMMARY—Revises provisions governing regulation of motor vehicle fuel. (BDR 51-258)"

"AN ACT relating to motor vehicle products; requiring the State Board of Agriculture to adopt by regulation certain specifications for motor vehicle fuel; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law regulates the sale of motor vehicle fuel and requires the State Board of Agriculture to adopt regulations setting forth the standards for motor vehicle fuel used in internal combustion engines. (NRS 590.010-590.150) This bill requires the Board, in setting the standards for motor vehicle fuel, to adopt the most recent standard specifications for motor vehicle fuel established by ASTM International. This bill also requires the Board to review all changes made by ASTM International to those standard specifications for motor vehicle fuel and to incorporate those changes in the regulations adopted by the Board. *However, in lieu of adopting one or more of the standard specifications established by ASTM International, or any changes thereto, this bill allows the Board to adopt standard specifications for motor vehicle fuel proposed by a state, regional or local air pollution control agency to attain or maintain national ambient air quality standards in any area of this State. Finally, this bill requires the Board to adopt procedures for allowing variances from the standard specifications for motor vehicle fuel for any person who is unable to comply with the standard specifications because of circumstances beyond the person's reasonable control.*

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

Section 1. NRS 590.070 is hereby amended to read as follows:

590.070 1. ~~[The]~~ *Except as otherwise provided in this section, the* State Board of Agriculture shall ~~[adopt regulations relating to the standards]~~ *:*

(a) Adopt by regulation the most recent standard specifications for motor vehicle fuel ~~[and petroleum products used in internal combustion engines.]~~ *established by ASTM International; and*

(b) Review all changes made by ASTM International to those standard specifications for motor vehicle fuel and incorporate those changes in the regulations adopted by the Board pursuant to this section.

2. *In lieu of adopting one or more of the standard specifications for motor vehicle fuel established by ASTM International, or any changes thereto, the State Board of Agriculture may adopt by regulation standard specifications for motor vehicle fuel proposed by an air pollution control agency to attain or maintain national ambient air quality standards in any area of this State. As used in this subsection, "air pollution control agency" means any state, regional or local agency that has the authority pursuant to chapter 445B of NRS to regulate or control air pollution or air quality in any area of this State.*

3. The State Board of Agriculture shall adopt by regulation procedures for allowing variances from the standard specifications for motor vehicle fuel adopted pursuant to this section for any person who is unable to comply with the standard specifications because of circumstances beyond the person's reasonable control.

4. It is unlawful for any person, or any officer, agent or employee thereof, to sell, offer for sale, assist in the sale of, deliver or permit to be sold or offered for sale, any petroleum or petroleum product ~~*[for any alternative fuel]*~~ as, or purporting to be, motor vehicle fuel, unless it conforms with the regulations adopted by the State Board of Agriculture pursuant to this section.

~~[3.]~~ *5.* This section does not apply to aviation fuel.

~~[4.]~~ *6.* In addition to any criminal penalty that is imposed pursuant to the provisions of NRS 590.150, any person who violates any provision of this section may be further punished as provided in NRS 590.071.

Sec. 2. NRS 590.071 is hereby amended to read as follows:

590.071 1. The State Board of Agriculture shall:

(a) Enforce the ~~[standards relating to]~~ *specifications for* motor vehicle fuel ~~[and petroleum products]~~ adopted *by regulation* pursuant to NRS 590.070.

(b) Adopt regulations specifying a schedule of fines that it may impose, upon notice and hearing, for each violation of the provisions of NRS 590.070. The maximum fine that may be imposed by the Board for each violation must not exceed $5,000 per day. All fines collected by the Board pursuant to the regulations adopted pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

2. The State Board of Agriculture may:

(a) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation.

(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the Board suspects may have violated any provision of NRS 590.070.

Sec. 3. This act becomes effective upon passage and approval for the purpose of adopting regulations, and on October 1, 2007, for all other purposes.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 128.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 209.

"SUMMARY— ~~[Requires the Department of Transportation to fix a reduced maximum weight limit for vehicles traveling on certain highways.]~~ *Prohibits certain vehicles from traveling on that portion of State Route 159 that is designated as a scenic route and requiring the Department of Transportation to erect suitable markers along that portion of the Route.* (BDR 43-211)"

"AN ACT relating to ~~[highways; requiring the Department of Transportation to fix a reduced maximum weight limit for vehicles traveling on certain highways that have been designated as scenic routes; requiring the imposition of a fine for violations thereof;]~~ *transportation; prohibiting certain vehicles from traveling on that portion of State Route 159 that is designated as a scenic route; requiring the Department of Transportation to erect suitable markers along that portion of the Route; requiring the Department to consider certain factors and to receive approval from the Board of Directors of the Department before reducing the maximum weight limits on certain highways;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law authorizes the Director of the Department of Transportation to designate a highway as a scenic route if the route meets the requirements established by regulation for such a designation. (NRS 408.213) Existing law also establishes maximum weight limits for vehicles operated or moved upon public highways. (NRS 484.745, 484.748, 484.7485) Under existing law, the Department is authorized to fix a reduced maximum weight limit for vehicles passing over a highway if the Department determines that conforming with the maximum weight limits otherwise set by law is likely to cause substantial stress to the highway. (NRS 484.752) A person who is convicted of a violation of certain vehicular limitations on weight is required to be punished~~

~~by a fine that is based on the pounds of excess weight. (NRS 484.757)]~~

This bill ~~[requires the Department to fix a reduced maximum weight limit for vehicles passing over a highway that has been designated as a scenic route if the Department determines that conforming with the maximum weight limits otherwise set by law is likely to result in conditions that are dangerous or hazardous to the safety of the public. The same fine imposed in existing law for violations of the maximum vehicular weight limits applies to violations of a reduced maximum weight limit on a scenic route.]~~ *prohibits oversized vehicles which do not have a point of origin or destination on that portion of State Route 159 that is designated as a scenic route to travel on that portion of the Route and requires the Department of Transportation to erect suitable markers along that portion of the Route. Further, this bill requires the Department to consider certain factors and receive approval from the Board of Directors of the Department before reducing the maximum weight limits for oversized vehicles as prescribed by existing law on a highway under its jurisdiction. (NRS 484.745, 484.748, 484.7485)*

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

Delete existing section 1 of this bill and replace with the following new sections 1 through 4:

Section 1. The Legislature hereby finds and declares that:

1. Because of its unique character, the restrictions imposed on certain large vehicles pursuant to this act are necessary for the protection of the Red Rock Canyon National Conservation Area and the safety and protection of the residents and visitors who enjoy the scenic beauty and recreational opportunities of the Red Rock Canyon.

2. The enactment of this act is not intended to encourage the imposition of similar restrictions on other designated scenic routes in this State.

Sec. 2. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. Except as otherwise provided in subsection 3, it is unlawful for an operator or driver of any vehicle which:

(a) Is registered pursuant to the provisions of NRS 706.801 to 706.861, inclusive; or

(b) Has a declared gross weight in excess of 26,000 pounds,

➥ and which does not have a point of origin or destination on State Route 159 from mile post 0.0 to mile post 14.0 to travel on such Route.

2. The Department of Transportation shall erect suitable markers along State Route 159 and may locate them at such points as the Department of Transportation deems appropriate.

3. This section does not apply to:

(a) An authorized emergency vehicle;

(b) A vehicle being used in the service of a public utility as defined in NRS 704.020;

(c) A school bus; or

(d) A charter bus.

Sec. 4. 1. Except as otherwise provided in NRS 484.752, before the Department of Transportation reduces the maximum weight limits as prescribed in NRS 484.745, 484.748 and 484.7485 on a highway under its jurisdiction, the Department of Transportation shall:

(a) Consider:

(1) The average number of vehicles traveling on the highway each day;

(2) The number of vehicles that have a declared gross weight in excess of 26,000 pounds that are included in the average number pursuant to subparagraph (1);

(3) The availability of alternate routes to the highway;

(4) The impact on each alternate route of increased traffic consisting of vehicles that have a declared gross weight in excess of 26,000 pounds;

(5) The number of traffic accidents involving a vehicle that has a declared gross weight in excess of 26,000 pounds on the highway in the past 5 years;

(6) Any projected adverse economic or environmental impact resulting from reducing the maximum weight limits on the highway; and

(7) Any other factors the Department of Transportation deems appropriate; and

(b) Present such considerations to the Board of Directors of the Department of Transportation to receive the Board's approval to reduce the maximum weight limits pursuant to this section.

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 152.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 431.

"SUMMARY—Proposes to exempt sales of certain ophthalmic or ocular devices or appliances *and certain aircraft and aircraft parts* from sales and use taxes and analogous taxes. (BDR 32-939)"

"AN ACT relating to taxes on retail sales; providing for the submission to the voters of the ~~[question]~~ *questions* whether the Sales and Use Tax Act of 1955 should be amended to provide ~~[an exemption]~~ *exemptions* from the tax for certain ophthalmic or ocular devices or appliances ~~[,]~~ *and for certain aircraft and aircraft parts;* providing for such an exemption from certain analogous taxes if the voters approve ~~[the]~~ *such an* amendment to the Sales and Use Tax Act of 1955; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the Sales and Use Tax Act of 1955, which was approved by the voters in a referendum on November 6, 1956. (Chapter 372 of NRS) Under existing law, if the voters approve a statute or resolution in a referendum, the statute or resolution is the law of the State and may not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. (Nev. Const. Art. 19, § 1)

Existing law creates the Local School Support Tax Law. (Chapter 374 of NRS) Any amendment to the Local School Support Tax Law is also applicable to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 377A.030, 377B.110 and 543.600 and various special and local acts)

~~[This bill requires]~~ *Sections 1-8 of this bill require* that a question be submitted to the voters at the 2008 General Election on whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for ophthalmic or ocular devices or appliances prescribed by a physician or optometrist.

~~[This bill amends]~~ *Sections 18 and 20 of this bill amend* the Local School Support Tax Law to provide an exemption for ophthalmic or ocular devices or appliances prescribed by a physician or optometrist.

The exemptions from sales and use taxes for ophthalmic or ocular devices or appliances become effective on January 1, 2009, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2008.

Sections 9-16 of this bill require that a question be submitted to the voters at the 2008 General Election on whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for aircraft used primarily for commercial or nonprofit purposes, aircraft parts, materials and tools used for the remodeling, repair or maintenance of those aircraft, and aircraft parts used to reduce the noise emitted by any aircraft.

Sections 17 and 19 of this bill amend the Local School Support Tax Law to provide an exemption for aircraft used primarily for commercial or nonprofit purposes, aircraft parts, materials and tools used for the remodeling, repair or maintenance of those aircraft, and aircraft parts used to reduce the noise emitted by any aircraft.

The exemptions from sales and use taxes for aircraft and aircraft parts become effective on January 1, 2009, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2008.

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

Section 1. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and

subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 2. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 3. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

"AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." "approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA
DO ENACT AS FOLLOWS:

Section 1. Section 15 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 765, is hereby amended to read as follows:

Sec. 15. 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Tax Commission determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

~~[3. A licensed optometrist or physician and surgeon is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.]~~

Sec. 2. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) *Any ophthalmic or ocular device or appliance prescribed by a physician or optometrist.*

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory ~~[, ophthalmic or ocular]~~ device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 3. This act becomes effective on January 1, 2009.

Sec. 4. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist?

Yes ☐ No ☐

Sec. 5. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this Act the gross receipts from the sale and storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist. If this proposal is adopted, the Legislature has provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemption.

Sec. 6. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 7. All general election laws not inconsistent with this act are applicable.

Sec. 8. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the office of the

Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 9. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 10. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 11. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

"AN ACT *to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." "approved March 29, 1955, as amended.*

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 773, is hereby amended by adding thereto a new section to be designated as section 61.6, immediately following section 61.5, to read as follows:

Sec. 61.6. There are hereby exempted from the taxes imposed by this chapter the gross receipts from the sales and storage, use or other consumption of any:

1. Aircraft which is:

(a) Used primarily to transport passengers or freight for hire; or

(b) Sold to any person who is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(3) and used primarily for charitable or other nonprofit purposes;

2. Parts or other materials which are installed in or otherwise affixed or applied to any aircraft described in subsection 1 for the purposes of remodeling, repairing or maintaining such aircraft, and any tools or other equipment used in the remodeling, repair or maintenance of such aircraft; and

3. Parts, equipment or other components which are:

(a) Installed in or otherwise affixed or applied to any aircraft to reduce the noise emitted by that aircraft; and

(b) Substantially effective in reducing that noise, as determined in accordance with any applicable guidelines established by the Federal Aviation Administration or any other governmental agency.

Sec. 2. This act becomes effective on January 1, 2009.

Sec. 12. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of aircraft used primarily for commercial or nonprofit purposes, aircraft parts, materials and tools used for the remodeling, repair or maintenance of those aircraft, and aircraft parts used to reduce the noise emitted by any aircraft?

Yes ☐ No ☐

Sec. 13. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this Act the gross receipts from the sale and storage, use or other consumption of aircraft used primarily for commercial or nonprofit purposes, aircraft parts, materials and tools used for the remodeling, repair or maintenance of those aircraft, and aircraft parts used to reduce the noise emitted by any aircraft. If this proposal is adopted, the Legislature has provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemption.

Sec. 14. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 15. All general election laws not inconsistent with this act are applicable.

Sec. 16. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the Office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 17. *Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:*

There are hereby exempted from the taxes imposed by this chapter the gross receipts from the sales and storage, use or other consumption of any:

1. Aircraft which is:

(a) Used primarily to transport passengers or freight for hire; or

(b) Sold to any person who is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(3) and used primarily for charitable or other nonprofit purposes;

2. Parts or other materials which are installed in or otherwise affixed or applied to any aircraft described in subsection 1 for the purposes of remodeling, repairing or maintaining such aircraft, and any tools or other equipment used in the remodeling, repair or maintenance of such aircraft; and

3. Parts, equipment or other components which are:

(a) Installed in or otherwise affixed or applied to any aircraft to reduce the noise emitted by that aircraft; and

(b) Substantially effective in reducing that noise, as determined in accordance with any applicable guidelines established by the Federal Aviation Administration or any other governmental agency.

~~[Sec. 9.]~~ *Sec. 18.* NRS 374.060 is hereby amended to read as follows:

374.060 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

~~[3. A licensed optometrist or physician is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.]~~

Sec. 19. *NRS 374.265 is hereby amended to read as follows:*

374.265 "Exempted from the taxes imposed by this chapter," as used in NRS 374.265 to 374.355, inclusive, *and section 17 of this act,* means exempted from the computation of the amount of taxes imposed.

~~[Sec. 10.]~~ *Sec. 20.* NRS 374.287 is hereby amended to read as follows:

374.287 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) *Any ophthalmic or ocular device or appliance prescribed by a physician or optometrist.*

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory ~~[, ophthalmic or ocular]~~ device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

~~[Sec. 11.]~~ *Sec. 21.* 1. This section and sections 1 to ~~[8,]~~ *16,* inclusive, of this act become effective on July 1, 2007.

2. Sections ~~[9 and 10]~~ *18 and 20* of this act become effective on January 1, 2009, only if the proposal submitted pursuant to sections 1 to 8, inclusive, of this act is approved by the voters at the General Election on November 4, 2008.

3. Sections 17 and 19 of this act become effective on January 1, 2009, only if the proposal submitted pursuant to sections 9 to 16, inclusive, of this act is approved by the voters at the General Election on November 4, 2008.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 198.

Bill read second time.

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

Amendment No. 555.

"SUMMARY— ~~[Authorizes various governmental entities to enter into lease-purchase agreements.]~~ *Revises provisions relating to certain public contracts.* (BDR ~~[31]~~ *S*-231)"

"AN ACT relating to ~~[lease-purchase agreements;]~~ *governmental administration;* amending the Charter of the City of Las Vegas to authorize the City Council to enter into lease and lease-purchase agreements for the construction or remodeling of a building or facility; ~~[removing restrictions on the ability of]~~ *revising provisions governing installment-purchase and lease-purchase agreements by* the Nevada System of Higher Education *;* ~~[to enter into lease-purchase agreements;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill authorizes the City Council of the City of Las Vegas to enter into a lease or a lease-purchase agreement for the construction or remodeling of a building or facility.

Existing law defines the term "state agency" for purposes of ~~[authorizing state agencies to enter into]~~ *the requirements for* installment-purchase and lease-purchase agreements ~~[.]~~ *by the State.* (NRS 353.540) Effective through June 30, 2007, the definition of "state agency" includes the Nevada System of Higher Education, but only if it is anticipated that payments under any such agreement will be made with state appropriations. (NRS 353.540) Sections ~~[1,]~~ 3 and 4 of this bill eliminate the expiration date so that the Nevada System of Higher Education ~~[will]~~ *continues to* be included in the definition of "state agency" after June 30, 2007 ~~[, and eliminate other restrictions so that the Nevada System of Higher Education will be treated the same as other state agencies for the purposes of installment-purchase and lease-purchase agreements.]~~ *, for purposes of installment-purchase and lease-purchase agreements paid with state appropriations.*

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

Section 1. [NRS 353.540 is hereby amended to read as follows:

353.540 "State agency" means an agency, bureau, board, commission, department, division or any other unit of the government of this State that is required to submit information to the Chief pursuant to subsection 1 or 6 of NRS 353.210. ~~[~~"State agency" does not include~~]~~ ~~*The term includes*~~ the Nevada System of Higher Education~~.~~ ~~[~~unless it is anticipated that payments under the agreement will be made with state appropriations.~~]~~ *(Deleted by amendment.)*

Sec. 2. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 2.145, immediately following section 2.140, to read as follows:

Sec. 2.145 Powers of City Council: Lease or lease-purchase agreement for construction or remodeling of building or facility; conveyance of property; applicability of certain provisions to agreement for construction or remodeling of building or facility.

1. The City Council may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the City Council and thereupon enter into a lease or a lease-purchase agreement with the City Council for that building or facility.

2. The City Council may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.

3. The provisions of NRS 338.010 to 338.090, inclusive, apply to any agreement for the construction or remodeling of a building or facility entered into pursuant to subsection 1.

Sec. 3. Section 32 of chapter 508, Statutes of Nevada 2005, at page 2906, is hereby amended to read as follows:

Sec. 32. 1. This act becomes effective on July 1, 2005.

2. ~~[~~Section 28 of this act expires by limitation on June 30, 2007.

~~3.~~~~]~~ Sections 5 and 6 of this act expire by limitation on May 1, 2013.

Sec. 4. Section 30 of chapter 508, Statutes of Nevada 2005, at page 2905, is hereby repealed.

Sec. 5. This act becomes effective on June 30, 2007.

TEXT OF REPEALED SECTION

Section 30 of chapter 508, Statutes of Nevada 2005:

Sec. 30. 1. During Fiscal Year 2005-2006 and Fiscal Year 2006-2007, the Nevada System of Higher Education may not enter into more than three agreements pursuant to NRS 353.500 to 353.630, inclusive, as amended by this act, with respect to which it is anticipated that payments under the agreement will be made with state appropriations.

2. The Nevada System of Higher Education shall include with a proposed agreement submitted for approval pursuant to NRS 353.550 an analysis of the fiscal impact of the proposed agreement, including, without limitation, the sources of funding for the ongoing costs relating to the agreement and a method to obtain appropriations to pay for the agreement.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 257.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 148.

"SUMMARY—Authorizes the Board of County Commissioners of Nye County to increase the sales tax to ~~[recruit, employ and equip additional deputy sheriffs.]~~ *support public safety services.* (BDR S-137)"

"AN ACT relating to taxation; authorizing the Board of County Commissioners of Nye County to increase the sales and use tax to ~~[recruit, employ and equip additional deputy sheriffs for]~~ *support public safety services in* Nye County; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill is modeled on the provisions of the Clark County Sales and Use Tax Act of 2005, which authorized the Board of County Commissioners of Clark County to impose an additional sales tax of up to one-half of 1 percent for the purposes of employing and equipping additional police officers for the police departments located in Clark County.

Section 12 of this bill authorizes the Board of County Commissioners of Nye County to impose an additional sales tax of up to one-half of 1 percent for the purposes of recruiting, employing and equipping additional *firefighters,* deputy sheriffs *and other public safety personnel* ~~[for]~~ *and constructing, improving and equipping public safety facilities in* Nye County ~~[.]~~ *, and provides for the allocation of the proceeds of that tax within that County.* Any proposed change in the use of the proceeds from the tax must be submitted to the voters for approval and be approved by the Legislature.

Section 15 of this bill requires the approval of the ~~[Board of County Commissioners of Nye County]~~ *governing body of each area to which the proceeds of the tax have been allocated* before the ~~[Sheriff of Nye County can spend]~~ *expenditure of* any of ~~[the proceeds collected pursuant to the tax. The Board]~~ *those proceeds in that area. The governing body* is required to approve the expenditure of the proceeds of the tax if the expenditure complies with the provisions of this bill and the expenditure would not replace existing funding *provided* for ~~[the Sheriff.]~~ *the same purposes as those for which the additional sales tax is imposed.*

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

Section 1. This act may be cited as the Nye County Sales and Use Tax Act of 2007.

Sec. 2. The Legislature hereby finds and declares that:

1. Nye County has experienced and continues to experience substantial growth, growing from a population of 32,485 residents in 2000 to a projected population of over 44,580 residents in 2006;

2. Nye County is the third largest county in terms of geographic area in the United States and the growth in Nye County has occurred over this wide geographical area;

3. The increase in the number of ~~[deputy sheriffs]~~ *public safety personnel and facilities* to protect the residents of Nye County has not kept pace with this growth;

4. The ~~[crime rate]~~ *danger from fire and crime is increasing* in Nye County ~~[is increasing,]~~ , and so is the time it takes for ~~[deputy sheriffs]~~ *public safety personnel* to respond when a resident reports a *fire or* crime *;* ~~[, while the very real threat of terrorism means that deputy sheriffs now must assume added responsibilities for homeland security;]~~

5. It is intended that ~~[80 percent of any additional deputy sheriffs recruited, employed and equipped pursuant to this act be assigned to uniform operations for marked patrol units in the community and for the control of traffic;~~

~~6. It is further intended that the Sheriff]~~ *the Board of County Commissioners* of Nye County establish a program that promotes community participation in protecting the residents of the community that includes, without limitation:

(a) A written policy ~~[of the Sheriff that sets forth his position]~~ on providing ~~[law enforcement]~~ *public safety* services oriented toward the involvement of residents of the community;

(b) The provision of training for all ~~[deputy sheriffs employed by the Sheriff]~~ *public safety personnel employed in the County* that includes, without limitation, training relating to:

(1) Methods that may be used to analyze, respond to and solve problems commonly confronted by ~~[deputy sheriffs]~~ *public safety personnel* in the community;

(2) The cultural and racial diversity of the residents of the community;

(3) The proper utilization of community resources, such as local housing authorities, public utilities and local public officials, that are available to assist in providing ~~[law enforcement]~~ *public safety* services; and

(4) Issues concerning not only the prevention of *fires and* crime, but also improving the quality of life for the residents of the community; and

(c) The formation of partnerships with the residents of the community and public and private agencies and organizations to address mutual concerns relating to the provision of ~~[law enforcement]~~ *public safety* services;

~~[7.]~~ *6.* A general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act because of the demographic, economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Nye County and the special financial conditions experienced in the County relating to the need to recruit, employ and equip more ~~[deputy sheriffs;]~~ *public safety personnel and to construct, improve and equip public safety facilities;* and

~~[8.]~~ *7.* The powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.

Sec. 3. Except as otherwise provided in this act or unless the context otherwise requires, the terms used or referred to in this act have the meanings ascribed to them in chapter 374 of NRS, as from time to time amended, but the definitions in sections 4 to 11, inclusive, of this act, unless the context otherwise requires, govern the construction of this act.

Sec. 4. "Act" means the Nye County Sales and Use Tax Act of 2007.

Sec. 5. "Board" means the Board of County Commissioners of Nye County.

Sec. 6. "County" means Nye County.

Sec. 7. "County Treasurer" means the County Treasurer of Nye County.

Sec. 8. "Department" means the Department of Taxation created pursuant to NRS 360.120.

Sec. 9. "Employ" means making an expenditure for the purpose of providing employment, including, without limitation, paying wages and benefits.

Sec. 10. "Recruit" means making an expenditure for the purpose of attracting applicants for employment or persuading an applicant to accept employment, including, without limitation, providing materials and services relating to recruitment, paying signing bonuses, paying expenses relating to relocation and providing assistance with the purchase of a house.

Sec. 11. "Sheriff" means the Sheriff of Nye County.

Sec. 12. 1. The Board may enact an ordinance imposing a local sales and use tax to ~~[recruit,]~~ *:*

(a) Recruit, employ and equip additional *firefighters,* deputy sheriffs to the Sheriff ~~[.]~~ *and other public safety personnel;*

(b) Improve and equip existing public safety facilities; and

(c) Construct and equip new public safety facilities.

2. Before enacting such an ordinance, the Board shall hold a public hearing to present its plan for implementing the local sales and use tax.

3. The proceeds from the tax authorized pursuant to this section, including interest and other income earned thereon, must be ~~[used]~~ *:*

(a) Allocated for expenditure:

(1) In the areas of Pahrump, Amargosa Valley, Beatty, Tonopah, Round Mountain, Manhattan, Gabbs and any other town or city created in Nye

County after October 1, 2007, and in the remaining unincorporated area of Nye County on a pro rata basis in each of those areas based upon the ratio of the population of that area to the total population of Nye County; or

(2) In any other manner that the Board and the governing body of each of those areas agree to be appropriate to carry out the purposes set forth in subsection 1 in accordance with the provisions of section 15 of this act.

➥ As used in this paragraph, "population" means the estimated annual population determined pursuant to NRS 360.283.

(b) Used only as approved pursuant to section 15 of this act and only for the purposes set forth in ~~[this section]~~ *subsection 1* unless the Legislature changes the use. The Board shall, before submitting to the Legislature any request to change the uses for the proceeds from the tax, submit an advisory question to the voters of the County pursuant to NRS 293.482, asking whether the uses for the proceeds from the tax should be so changed. The Board shall not submit such a request to the Legislature if a majority of the voters in the County disapprove the proposed change.

Sec. 13. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate ~~[of:~~

~~(a) One-quarter of 1 percent if the date on which the tax must first be imposed is on October 1, 2007; and~~

~~(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2011, and if the Legislature first approves the increased rate,~~

~~➥ the total rate]~~ *that does* not ~~[to]~~ exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that ~~[exempts from the tax the gross receipts from]~~ *a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed on* the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed, which must not be earlier than the first day of the second calendar month following the effective date of the ordinance.

Sec. 14. An ordinance amending an ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include a provision in substance that the Board shall amend a contract made pursuant to subsection 4 of section 13 of this act by a contract made between the Board and the Department before the effective date of the amendatory ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is needed.

Sec. 15. 1. The ~~[Sheriff shall not expend]~~ proceeds received from any sales and use tax imposed pursuant to this act *must be expended in each of the areas to which those proceeds are allocated for expenditure pursuant to section 12 of this act in such a manner that half of those proceeds are expended for the support of the services provided by local fire departments in that area and the remaining half of those proceeds are expended for the support of the services provided by the Sheriff in that area.*

2. No expenditure of those proceeds may be made unless the expenditure has been approved by the ~~[Board. The Board]~~ *governing body of the area to which those proceeds have been allocated for expenditure. The governing body* must approve the expenditure of the proceeds ~~[by the Sheriff]~~ if it determines that:

(a) The proposed use of the money conforms to all provisions of this act; and

(b) The proposed use will not replace or supplant existing funding for *the purposes set forth in subsection 1 of section 12 of this act for the support of the services provided by local fire departments and* the Sheriff ~~[.~~ ~~2.]~~ *in that area.*

3. In determining whether a proposed use meets the requirement set forth in paragraph (b) of subsection ~~[1, the Board]~~ *2, the governing body* shall determine whether the amount approved for expenditure ~~[by the Board]~~ for the fiscal year for the *purposes set forth in subsection 1 of section 12 of this act for the* support of the *services of local fire departments and the* Sheriff ~~[,]~~ *in that area,* not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the *purposes set forth in subsection 1 of section 12 of this act for the* support of the *services of local fire departments and the* Sheriff ~~[.]~~ *in that area.*

Sec. 16. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a percentage of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 17. The Department may redistribute any proceeds from the taxes, interest or penalties collected pursuant to this act which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department obtains knowledge of the improper distribution.

Sec. 18. 1. The County Treasurer shall ~~[deposit]~~ *:*

(a) Deposit money received from the State Controller pursuant to paragraph (c) of subsection 3 of section 16 of this act into the County Treasury for credit to a special revenue fund created for the use of the proceeds from the tax authorized by this act ~~[.]~~ *; and*

(b) Allocate that money into separate accounts within that fund as appropriate to carry out the provisions of paragraph (a) of subsection 3 of section 12 of this act.

2. The special revenue fund of the County created for the use of the proceeds from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.

3. Interest earned on the special revenue fund created pursuant to subsection 1 must be credited to the fund. The money in each such fund must remain in the fund and must not revert to the County Treasury at the end of any fiscal year.

Sec. 19. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the Department may act for and on behalf of the County.

Sec. 20. 1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any

other law and the limitations imposed by this act do not affect the powers conferred by any other law.

2. This act must not be construed to prevent the exercise of any power granted by any other law to the County or any officer, agent or employee of the County.

3. This act must not be construed to repeal or otherwise affect any other law or part thereof.

4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.

5. If any provision of this act, or application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 21. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of enacting ordinances and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2007, for all other purposes.

2. This act expires by limitation on October 1, 2027.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

The following amendment was proposed by Senator McGinness:

Amendment No. 399.

"SUMMARY—Authorizes the Board of County Commissioners of Nye County to increase the sales tax to ~~[recruit, employ and equip additional deputy sheriffs.]~~ *support public safety services.* (BDR S-137)"

"AN ACT relating to taxation; authorizing the Board of County Commissioners of Nye County to increase the sales and use tax to ~~[recruit, employ and equip additional deputy sheriffs for]~~ *support public safety services in* Nye County; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill is modeled on the provisions of the Clark County Sales and Use Tax Act of 2005, which authorized the Board of County Commissioners of Clark County to impose an additional sales tax of up to one-half of 1 percent for the purposes of employing and equipping additional police officers for the police departments located in Clark County.

Section 12 of this bill authorizes the Board of County Commissioners of Nye County to impose an additional sales tax of up to one-half of 1 percent for the purposes of recruiting, employing and equipping additional *firefighters,* deputy sheriffs *and other public safety personnel* ~~[for]~~ *and constructing, improving and equipping public safety facilities in* Nye County ~~[.]~~ *, and provides for the allocation of the proceeds of that tax within that*

County. Any proposed change in the use of the proceeds from the tax must be submitted to the voters for approval and be approved by the Legislature.

Section 15 of this bill requires the approval of the ~~[Board of County Commissioners of Nye County]~~ *governing body of each area to which the proceeds of the tax have been allocated* before the ~~[Sheriff of Nye County can spend]~~ *expenditure of* any of ~~[the proceeds collected pursuant to the tax. The Board]~~ *those proceeds in that area. The governing body* is required to approve the expenditure of the proceeds of the tax if the expenditure complies with the provisions of this bill and the expenditure would not replace existing funding *provided* for ~~[the Sheriff.]~~ *the same purposes as those for which the additional sales tax is imposed.*

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

Section 1. This act may be cited as the Nye County Sales and Use Tax Act of 2007.

Sec. 2. The Legislature hereby finds and declares that:

1. Nye County has experienced and continues to experience substantial growth, growing from a population of 32,485 residents in 2000 to a projected population of over 44,580 residents in 2006;

2. Nye County is the third largest county in terms of geographic area in the United States and the growth in Nye County has occurred over this wide geographical area;

3. The increase in the number of ~~[deputy sheriffs]~~ *public safety personnel and facilities* to protect the residents of Nye County has not kept pace with this growth;

4. The ~~[crime rate]~~ *danger from fire and crime is increasing* in Nye County ~~[is increasing,]~~ , and so is the time it takes for ~~[deputy sheriffs]~~ *public safety personnel* to respond when a resident reports a *fire or* crime .~~[, while the very real threat of terrorism means that deputy sheriffs now must assume added responsibilities for homeland security;]~~

5. It is intended that ~~[80 percent of any additional deputy sheriffs recruited, employed and equipped pursuant to this act be assigned to uniform operations for marked patrol units in the community and for the control of traffic;~~

~~6. It is further intended that the Sheriff]~~ *the Board of County Commissioners* of Nye County establish a program that promotes community participation in protecting the residents of the community that includes, without limitation:

(a) A written policy ~~[of the Sheriff that sets forth his position]~~ on providing ~~[law enforcement]~~ *public safety* services oriented toward the involvement of residents of the community;

(b) The provision of training for all ~~[deputy sheriffs employed by the Sheriff]~~ *public safety personnel employed in the County* that includes, without limitation, training relating to:

(1) Methods that may be used to analyze, respond to and solve problems commonly confronted by ~~[deputy sheriffs]~~ *public safety personnel* in the community;

(2) The cultural and racial diversity of the residents of the community;

(3) The proper utilization of community resources, such as local housing authorities, public utilities and local public officials, that are available to assist in providing ~~[law enforcement]~~ *public safety* services; and

(4) Issues concerning not only the prevention of *fires and* crime, but also improving the quality of life for the residents of the community; and

(c) The formation of partnerships with the residents of the community and public and private agencies and organizations to address mutual concerns relating to the provision of ~~[law enforcement]~~ *public safety* services;

~~[7.]~~ *6.* A general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act because of the demographic, economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Nye County and the special financial conditions experienced in the County relating to the need to recruit, employ and equip more ~~[deputy sheriffs;]~~ *public safety personnel and to construct, improve and equip public safety facilities;* and

~~[8.]~~ *7.* The powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.

Sec. 3. Except as otherwise provided in this act or unless the context otherwise requires, the terms used or referred to in this act have the meanings ascribed to them in chapter 374 of NRS, as from time to time amended, but the definitions in sections 4 to 11, inclusive, of this act, unless the context otherwise requires, govern the construction of this act.

Sec. 4. "Act" means the Nye County Sales and Use Tax Act of 2007.

Sec. 5. "Board" means the Board of County Commissioners of Nye County.

Sec. 6. "County" means Nye County.

Sec. 7. "County Treasurer" means the County Treasurer of Nye County.

Sec. 8. "Department" means the Department of Taxation created pursuant to NRS 360.120.

Sec. 9. "Employ" means making an expenditure for the purpose of providing employment, including, without limitation, paying wages and benefits.

Sec. 10. "Recruit" means making an expenditure for the purpose of attracting applicants for employment or persuading an applicant to accept employment, including, without limitation, providing materials and services relating to recruitment, paying signing bonuses, paying expenses relating to relocation and providing assistance with the purchase of a house.

Sec. 11. "Sheriff" means the Sheriff of Nye County.

Sec. 12. 1. The Board may enact an ordinance imposing a local sales and use tax to ~~[recruit,]~~ *:*

(a) Recruit, employ and equip additional *firefighters,* deputy sheriffs to the Sheriff ~~[.]~~ *and other public safety personnel;*

(b) Improve and equip existing public safety facilities; and

(c) Construct and equip new public safety facilities.

2. Before enacting such an ordinance, the Board shall hold a public hearing to present its plan for implementing the local sales and use tax.

3. The proceeds from the tax authorized pursuant to this section, including interest and other income earned thereon, must be ~~[used]~~ *:*

(a) Allocated for expenditure:

(1) In the areas of Pahrump, Amargosa Valley, Beatty, Tonopah, Round Mountain, Manhattan, Gabbs and any other town or city created in Nye County after October 1, 2007, and in the remaining unincorporated area of Nye County on a pro rata basis in each of those areas based upon the ratio of the population of that area to the total population of Nye County; or

(2) In any other manner that the Board and the governing body of each of those areas agree to be appropriate to carry out the purposes set forth in subsection 1 in accordance with the provisions of section 15 of this act.

➥ As used in this paragraph, "population" means the estimated annual population determined pursuant to NRS 360.283.

(b) Used only as approved pursuant to section 15 of this act and only for the purposes set forth in ~~[this section]~~ *subsection 1* unless the Legislature changes the use. The Board shall, before submitting to the Legislature any request to change the uses for the proceeds from the tax, submit an advisory question to the voters of the County pursuant to NRS 293.482, asking whether the uses for the proceeds from the tax should be so changed. The Board shall not submit such a request to the Legislature if a majority of the voters in the County disapprove the proposed change.

Sec. 13. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate ~~[of:~~

~~(a) One-quarter of 1 percent if the date on which the tax must first be imposed is on October 1, 2007; and~~

~~(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2011, and if the Legislature first approves the increased rate,~~

~~➥ the total rate]~~ *that does* not ~~[to]~~ exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that ~~[exempts from the tax the gross receipts from]~~ *a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed on* the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed, which must not be earlier than the first day of the second calendar month following the effective date of the ordinance.

Sec. 14. An ordinance amending an ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include a provision in substance that the Board shall amend a contract made pursuant to subsection 4 of section 13 of this act by a contract made between the Board and the Department before the effective date of the amendatory ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is needed.

Sec. 15. 1. The ~~[Sheriff shall not expend]~~ proceeds received from any sales and use tax imposed pursuant to this act *must be expended in each of the areas to which those proceeds are allocated for expenditure pursuant to section 12 of this act in such a manner that half of those proceeds are expended for the support of the services provided by local fire departments in that area and the remaining half of those proceeds are expended for the support of the services provided by the Sheriff in that area.*

2. No expenditure of those proceeds may be made unless the expenditure has been approved by the ~~[Board. The Board]~~ *governing body of the area to which those proceeds have been allocated for expenditure. The governing body* must approve the expenditure of the proceeds ~~[by the Sheriff]~~ if it determines that:

(a) The proposed use of the money conforms to all provisions of this act; and

(b) The proposed use will not replace or supplant existing funding for *the purposes set forth in subsection 1 of section 12 of this act for the support of the services provided by local fire departments and* the Sheriff ~~[.~~

~~2.]~~ *in that area.*

3. In determining whether a proposed use meets the requirement set forth in paragraph (b) of subsection ~~[1, the Board]~~ *2, the governing body* shall determine whether the amount approved for expenditure ~~[by the Board]~~ for the fiscal year for the *purposes set forth in subsection 1 of section 12 of this act for the* support of the *services of local fire departments and the* Sheriff ~~[,]~~ *in that area,* not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the *purposes set forth in subsection 1 of section 12 of this act for the* support of the *services of local fire departments and the* Sheriff ~~[.]~~ *in that area.*

Sec. 15.5. Any governing body of an area that has approved expenditures pursuant to section 15 of this act shall, on or before September 1 of each year, submit a detailed description of the use of the money, including, without limitation, a detailed analysis of the manner in which each expenditure:

1. Conforms to all provisions of this act; and

2. Does not replace or supplant funding which existed before October 1, 2007, for the purposes set forth in subsection 1 of section 12 of this act for the support of the services provided by local fire departments and the Sheriff in that area,

➥ to the Director of the Legislative Counsel Bureau for transmittal to the members of the Legislature.

Sec. 16. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a percentage of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 17. The Department may redistribute any proceeds from the taxes, interest or penalties collected pursuant to this act which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department obtains knowledge of the improper distribution.

Sec. 18. 1. The County Treasurer shall ~~[deposit]~~ *:*

(a) Deposit money received from the State Controller pursuant to paragraph (c) of subsection 3 of section 16 of this act into the County Treasury for credit to a special revenue fund created for the use of the proceeds from the tax authorized by this act ~~[.]~~ *; and*

(b) Allocate that money into separate accounts within that fund as appropriate to carry out the provisions of paragraph (a) of subsection 3 of section 12 of this act.

2. The special revenue fund of the County created for the use of the proceeds from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.

3. Interest earned on the special revenue fund created pursuant to subsection 1 must be credited to the fund. The money in each such fund must remain in the fund and must not revert to the County Treasury at the end of any fiscal year.

Sec. 19. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the Department may act for and on behalf of the County.

Sec. 20. 1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any other law and the limitations imposed by this act do not affect the powers conferred by any other law.

2. This act must not be construed to prevent the exercise of any power granted by any other law to the County or any officer, agent or employee of the County.

3. This act must not be construed to repeal or otherwise affect any other law or part thereof.

4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.

5. If any provision of this act, or application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 21. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of enacting ordinances and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2007, for all other purposes.

2. This act expires by limitation on October 1, 2027.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 314.

Bill read second time.

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

Amendment No. 319.

"SUMMARY—Requires the provision of information concerning services that are provided at certain residential facilities. ~~[for older persons.]~~ (BDR 40-1169)"

"AN ACT relating to residential facilities; requiring that certain facilities for independent living ~~[for older persons]~~ provide notice of the limitations on the services provided at the facility and certain other information; requiring the *Aging Services Division of the* Department of Health and Human Services to develop the required notice; requiring the Department ~~[of Health and Human Services]~~ to develop a brochure and website to assist older persons in determining the appropriate level of care and type of facility they require to meet their needs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensing and regulation of certain facilities and services for dependent persons. (Chapter 449 of NRS) Some facilities that serve as residences for independent living ~~[for older persons]~~ are not required to be licensed pursuant to chapter 449 of NRS. In some situations, such a facility may contain some units that are subject to licensure because of the services that they provide and other units that are not subject to licensure because they do not provide those services. Section 3 of this bill requires facilities which are not licensed pursuant to chapter 449 of NRS and which offer independent living ~~[for persons 55 years of age or older]~~ to provide notice of the limitations on the services provided and certain other information. Section 4 of this bill requires the Department of Health and Human Services to develop a brochure and a website to assist older persons seeking residential care or services in determining the appropriate level of care and services available at different facilities.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT 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. *"Residential facility for independent living" means a facility that* ~~*[:*~~

~~*1. Limits residency to persons 55 years of age or older, whether the residence is owned or leased by the occupant; and*~~

~~2. Does]~~ *does not provide care or services* ~~[that]~~ *which require licensure pursuant to this chapter* ~~[.~~

~~3. The term includes]~~ *, including, without limitation,* ~~[such facilities]~~ *a facility that* ~~[are]~~ *is affiliated with or* ~~[share]~~ *shares property with* ~~[facilities that are]~~ *another facility which is required to be licensed pursuant to this chapter.*

Sec. 3. *1. A residential facility for independent living shall conspicuously post in the facility and shall include in any contracts of sale or agreements for occupancy a notice that includes the following information:*

(a) That the facility is intended for independent living and does not directly provide or coordinate the oversight of services to meet the scheduled and unscheduled needs of its residents, including, without limitation, the provision of personal care, supportive services and health-related services.

(b) The other levels of care that are available to persons who require personal care, supportive services or health-related services, including, without limitation, residential facilities for groups, facilities for intermediate care and facilities for skilled nursing. The notice must describe the facilities and levels of care in language that is easy to understand.

(c) A statement that encourages residents to reassess on a regular basis the type of housing and care that is most appropriate for them.

2. The Aging Services Division of the Department of Health and Human Services shall develop the language for the notice required by subsection 1 in consultation with nationally recognized advocacy groups for older persons and housing organizations.

Sec. 4. *The Department of Health and Human Services shall develop a brochure and website to assist persons who are 55 years of age or older in determining the appropriate level of care and type of housing that they require to meet their individual needs. The brochure and website must include, without limitation:*

1. The various types of housing and levels of care that are available to persons who are 55 years of age or older, including, without limitation, residential facilities for independent living, residential facilities for groups, facilities for intermediate care and facilities for skilled nursing, distinguishing the varying degree of services that are offered by the different types of facilities; and

2. ~~[The location of the various facilities and the ranges of prices for residence or ownership; and~~

~~3.]~~ *Such other information as the Department deems to be beneficial to persons who are 55 years of age or older in determining the appropriate level of care and type of housing that they require to meet their individual needs.*

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 449.0195, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 328.

Bill read second time.

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

Amendment No. 317.

"SUMMARY—Revises provisions governing educational personnel. (BDR 34-473)"

"AN ACT relating to educational personnel; ~~[prohibiting]~~ *requiring* the board of trustees of ~~[a]~~ *each* school district ~~[from employing or reemploying a person as an administrator unless that person has certain experience in a classroom;]~~ *to adopt a program to engage administrators in annual classroom instruction and observation;* making various changes regarding the evaluation and admonition of educational personnel; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The board of trustees of a school district is authorized to employ a superintendent of schools, teachers and all other necessary employees. (NRS 391.100, 391.110, 391.120) Section 1 of this bill ~~[prohibits the board of trustees of a school district from employing or reemploying a person as an administrator unless: (1) if the person holds a license to teach, he provides instruction in a classroom for at least 1 day during each semester in the year before his employment or reemployment by the school district; or (2) if the person does not hold a license to teach, he personally observes a classroom for at least 1 day during each semester in the year before his employment or reemployment by the school district.]~~ *requires the board of trustees of each school district to adopt a program to engage administrators in annual classroom instruction and observation in a manner that is appropriate for the responsibilities, position and duties of the administrators.*

Existing law requires each probationary teacher to be evaluated at least three times during each school year and a postprobationary teacher to be evaluated at least once each school year. (NRS 391.3125) Section 5 of this bill requires an administrator who is responsible for evaluating a teacher to personally observe that teacher in the classroom for not less than ~~[1 hour]~~ *a cumulative total of 60 minutes* during each evaluation period ~~[.]~~ *, with at least one observation consisting of at least 45 minutes.* If a deficiency is discovered during the evaluation process, every effort must be made to assist the teacher to correct the deficiency. Existing law prescribes the circumstances under which an administrator may admonish an employee. (NRS 391.313) Section 6 of this bill requires that, if an administrator admonishes a teacher, an admonition must include a description of the

deficiencies of the teacher and the actions that are necessary to correct those deficiencies.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of ~~[a]~~ each school district shall ~~[not employ or reemploy a person as an administrator unless the person has:]~~ adopt a policy that sets forth procedures and conditions for a program to engage administrators in annual classroom instruction and observation in a manner that is appropriate for the responsibilities, position and duties of the administrators. The policy must require each administrator employed by the school district to:

(a) If he holds a license to teach, ~~[provided]~~ provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day ~~[during each semester;]~~ in each school year; or

(b) If he does not hold a license to teach, personally ~~[observed]~~ observe a classroom for at least 1 regularly scheduled full instructional day ~~[during each semester,~~

~~➥ in the year immediately preceding the date of his employment or the date of his reemployment, as applicable.]~~ in each school year.

2. A school level administrator shall carry out the requirements of this section at the school to which he is assigned. A district level administrator may choose a school within the school district at which he will carry out the requirements of this section.

3. An administrator who provides instruction pursuant to paragraph (a) of subsection 1 must be assigned as a substitute teacher for the full instructional day in which he carries out the requirements of this section.

4. As used in this section ~~[, "administrator"]~~ :

(a) "Administrator" means each person employed by a school district to provide administrative service at ~~[the:~~

~~(a) District]~~ :

(1) The district level, including, without limitation, the superintendent of schools of the school district;

~~[(b) School]~~

(2) The school level, including, without limitation, a principal or vice principal; or

~~[(c)]~~ (3) Both the district level and the school level.

➥ The term does not include a teacher whose working time is primarily spent providing instruction in a classroom.

(b) "Core academic subject" means the core academic subjects designated pursuant to NRS 389.018.

Sec. 2. ~~[NRS 391.100 is hereby amended to read as follows:~~

~~391.100 1. [The] *Except as otherwise provided in section 1 of this act, the* board of trustees of a school district may employ a superintendent of schools, teachers and all other necessary employees.~~

~~2. A person who is initially hired by the board of trustees of a school district on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not "initially hired" if he has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.~~

~~3. A person who is employed as a teacher, regardless of the date of hire, must possess, on or before July 1, 2006, the qualifications required by 20 U.S.C. § 6319(a) if he teaches:~~

~~(a) English, reading or language arts;~~

~~(b) Mathematics;~~

~~(c) Science;~~

~~(d) Foreign language;~~

~~(e) Civics or government;~~

~~(f) Economics;~~

~~(g) Geography;~~

~~(h) History; or~~

~~(i) The arts.~~

~~4. The board of trustees of a school district:~~

~~(a) May employ teacher aides and other auxiliary, nonprofessional personnel to assist licensed personnel in the instruction or supervision of children, either in the classroom or at any other place in the school or on the grounds thereof. A person who is initially hired as a paraprofessional by a school district on or after January 8, 2002, to work in a program supported with Title I money must possess the qualifications required by 20 U.S.C. § 6319(c). A person who is employed as a paraprofessional by a school district, regardless of the date of hire, to work in a program supported with Title I money must possess, on or before January 8, 2006, the qualifications required by 20 U.S.C. § 6319(c). For the purposes of this paragraph, a person is not "initially hired" if he has been employed as a paraprofessional by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.~~

~~(b) Shall establish policies governing the duties and performance of teacher aides.~~

~~5. Each applicant for employment pursuant to this section, except a teacher or other person licensed by the Superintendent of Public Instruction, must, as a condition to employment, submit to the school district a full set of his fingerprints and written permission authorizing the school district to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for~~

~~submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.~~

~~6. Except as otherwise provided in subsection 7, the board of trustees of a school district shall not require a licensed teacher or other person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district, including, without limitation:~~

~~(a) Sick leave;~~

~~(b) Sabbatical leave;~~

~~(c) Personal leave;~~

~~(d) Leave for attendance at a regular or special session of the Legislature of this State if the employee is a member thereof;~~

~~(e) Maternity leave; and~~

~~(f) Leave permitted by the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.,~~

~~→ to submit a set of his fingerprints as a condition of return to or continued employment with the school district if the employee is in good standing when the employee began the leave.~~

~~7. [A] *The* board of trustees of a school district may ask the Superintendent of Public Instruction to require a person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district to submit a set of his fingerprints as a condition of return to or continued employment with the school district if the board of trustees has probable cause to believe that the person has committed a felony or an offense involving moral turpitude during the period of his leave of absence.~~

~~8. The board of trustees of a school district may employ or appoint persons to serve as school police officers. If the board of trustees of a school district employs or appoints persons to serve as school police officers, the board of trustees shall employ a law enforcement officer to serve as the chief of school police who is supervised by the superintendent of schools of the school district. The chief of school police shall supervise each person appointed or employed by the board of trustees as a school police officer. In addition, persons who provide police services pursuant to subsection 9 or 10 shall be deemed school police officers.~~

~~9. The board of trustees of a school district in a county that has a metropolitan police department created pursuant to chapter 280 of NRS may contract with the metropolitan police department for the provision and supervision of police services in the public schools within the jurisdiction of the metropolitan police department and on property therein that is owned by the school district. If a contract is entered into pursuant to this subsection, the contract must make provision for the transfer of each school police officer employed by the board of trustees to the metropolitan police department. If the board of trustees of a school district contracts with a metropolitan police department pursuant to this subsection, the board of trustees shall, if~~

~~applicable, cooperate with appropriate local law enforcement agencies within the school district for the provision and supervision of police services in the public schools within the school district and on property owned by the school district, but outside the jurisdiction of the metropolitan police department.~~

~~10. The board of trustees of a school district in a county that does not have a metropolitan police department created pursuant to chapter 280 of NRS may contract with the sheriff of that county for the provision of police services in the public schools within the school district and on property therein that is owned by the school district.]~~ *(Deleted by amendment.)*

Sec. 3. ~~[NRS 391.110 is hereby amended to read as follows:~~

~~391.110 1.~~ ~~[The]~~ *~~Except as otherwise provided in section 1 of this act, the~~* ~~board of trustees of a school district may:~~

~~(a) Employ any person whom the board of trustees determines is qualified to serve as the superintendent of schools of the school district. The Commission may require the superintendent of any school district to hold a master's degree.~~

~~(b) Define his powers and fix his duties.~~

~~(c) Fix his salary.~~

~~2. If the board of trustees of a school district employs a person who is not licensed as an administrator to serve as the superintendent of schools, the board of trustees shall employ a person who is licensed as an administrator to oversee the academic programs of the public schools within the school district.~~

~~3. A superintendent of schools may be employed for an initial term not to exceed 4 years. The term of any subsequent employment may be of any duration.~~

~~4. A superintendent of schools may be dismissed at any time for cause.~~

~~5. A superintendent of schools may administer oaths or affirmations relating to public schools.]~~ *(Deleted by amendment.)*

Sec. 4. ~~[NRS 391.120 is hereby amended to read as follows:~~

~~391.120 1.~~ ~~[Boards]~~ *~~Except as otherwise provided in section 1 of this act, the board~~* ~~of trustees of [the school districts]~~ *~~a school district~~* ~~in this State may employ legally qualified teachers and other licensed personnel and may determine their salaries and the length of the term of school for which they are employed. These conditions and any other conditions agreed upon by the parties must be embodied in a written contract, or notice of reemployment, to be approved by the board of trustees and accepted and signed by the employee. A copy of the contract or notice of reemployment, properly written, must be delivered to each teacher or other licensed employee not later than the opening of the term of school.~~

~~2. A board of trustees may not employ teachers or other licensed personnel for any school year commencing after the expiration of the time for which any member of the board of trustees was elected or appointed.~~

~~3. It is unlawful for the board of trustees of any school district to employ any teacher who is not legally qualified to teach all the grades which the~~

~~teacher is engaged to teach. The board of trustees shall suspend or terminate, as applicable, the employment of any teacher who fails to maintain a license issued pursuant to this chapter in force, if such a license is required for employment. Any such suspension or termination must comply with the requirements of NRS 391.301 to 391.309, inclusive.~~

~~4. On or before November 15 of each year, the school district shall submit to the Department, in a form prescribed by the Superintendent of Public Instruction, the following information for each licensed employee employed by the school district on October 1 of that year:~~

~~(a) The amount of salary of the employee; and~~

~~(b) The designated assignment, as that term is defined by the Department, [of Education,] of the employee.]~~ *(Deleted by amendment.)*

Sec. 5. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded ~~[no]~~ *not* later than:

(a) December 1;

(b) February 1; and

(c) April 1,

➥ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. *An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for ~~[at least 1 hour]~~ not less than a cumulative total of 60 minutes during each evaluation period ~~[.]~~ , with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.*

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the

probationary period, he shall bring the matter to the employee's attention in a written document which is separate from the evaluation ~~[no]~~ *not* later than ~~[February 15]~~ *March 1* of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. *An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for* ~~*[at least 1 hour]*~~ *not less than a cumulative total of 60 minutes during each evaluation period* ~~*[.]*~~ *, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.*

6. The evaluation of a probationary teacher or a postprobationary teacher must ~~[, if]~~ *:*

(a) If necessary, include recommendations for improvements in his performance. ~~[A reasonable effort must be made to assist the teacher to correct any deficiencies noted in the evaluation.]~~

(b) Include a description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation.

(c) Include a statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. *Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.*

Sec. 6. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that he believes may lead to demotion ~~[,]~~ *or* dismissal or *may* cause the employee not to be reemployed under the provisions of NRS 391.312, he shall:

(a) Except as otherwise provided in subsection ~~[2,]~~ *3,* bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to his demotion, dismissal or a refusal to reemploy him, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for his potential demotion, dismissal or a potential recommendation not to reemploy him; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➥ *The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.*

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for him by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

~~[2.]~~ *3.* An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his employment will be terminated pursuant to NRS 391.3197. If by ~~[February 15]~~ *March 1* of the first or second year of his probationary period a probationary employee does not receive a written notice pursuant to subsection 4 of NRS 391.3125 of a potential decision not to reemploy him, he must receive an admonition before any such decision is made.

~~[3.]~~ *4.* A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h) and (p) of subsection 1 of NRS 391.312.

Sec. 7. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for two 1-year periods and has no right to employment after either of the two probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first and second school years of his probationary period, as appropriate, whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing on or before May 10 of the first or second year of his probationary period, as appropriate, of his acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify him in writing, in both the first and second years of his probationary period, no later than 45 days before his last day of work for the year under his contract whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. He must advise the board in writing within 10 days after the date of notification of his acceptance or rejection of reemployment for another year. Failure to advise the board of his acceptance of reemployment constitutes rejection of the contract.

3. A probationary employee who completes his 2-year probationary period and receives a notice of reemployment from the school district in the second year of his probationary period is entitled to be a postprobationary employee in the ensuing year of employment.

4. ~~[A]~~ *If a* probationary employee ~~[who receives an unsatisfactory evaluation]~~ *receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him, the employee* may request a supplemental evaluation by another administrator in the school

district selected by him and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in ~~[the]~~ *this* State. If a probationary employee has received during the first school year of his probationary period three evaluations which state that the employee's overall performance has been satisfactory, the superintendent of schools of the school district or his designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of his probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that he will not be reemployed for the second year of his probationary period or the ensuing school year, his employment ends on the last day of the current school year. The notice that he will not be reemployed must include a statement of the reasons for that decision.

6. A new employee or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 2-year probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an unsatisfactory evaluation during the first year of probation, the superintendent or his designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after either year of his probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

➥ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

7. An administrator who has completed his probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the additional probationary period, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

8. Before dismissal, the probationary employee is entitled to a hearing before a hearing officer which affords due process as set out in NRS 391.311 to 391.3196, inclusive.

Sec. 8. *On or before February 1, 2008, the board of trustees of each school district shall submit a copy of the program to engage administrators in annual classroom instruction and observation adopted by the school district pursuant to section 1 of this act to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.*

~~[Sec. 8.]~~ *Sec. 9.* This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senators Washington and Schneider.

Senator Washington moved that Senate Bill No. 328 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senate Bill No. 352.

Bill read second time.

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

Amendment No. 250.

"SUMMARY—Requires the ~~[City of North Las Vegas]~~ *Southern Nevada Enterprise Community Advisory Board* to develop a ~~[program]~~ *project* to make certain improvements to infrastructure in and near the Southern Nevada Enterprise Community. (BDR S-1315)"

"AN ACT relating to the ~~[City of North Las Vegas;]~~ *Southern Nevada Enterprise Community;* requiring the ~~[City]~~ *Southern Nevada Enterprise Community Advisory Board* to develop a ~~[program]~~ *project* to make certain improvements to infrastructure in and near the ~~[Southern Nevada Enterprise]~~ Community; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill enacts the ~~[North Las Vegas]~~ *Southern Nevada Enterprise Community* Infrastructure Improvement Act and requires the ~~[City of North Las Vegas]~~ *Southern Nevada Enterprise Community Advisory Board* to develop a ~~[program]~~ *project* to make certain improvements to infrastructure in and near the Southern Nevada Enterprise Community.

WHEREAS, On December 21, 1994, President William Jefferson Clinton designated nine census tracts in the urban core of the Las Vegas Valley as an "enterprise community"; and

WHEREAS, The designation was accompanied by an award of $2,950,000 in Title XX funds to be used for projects in the enterprise community; and

WHEREAS, The Southern Nevada Enterprise Community so created includes the target areas of West Las Vegas, East Las Vegas, Meadows Village and North Las Vegas; and

WHEREAS, The Southern Nevada Enterprise Community involves a partnership among the cities of Las Vegas and North Las Vegas, and Clark County, working together to harness resources from the public, private and nonprofit sectors to provide programs, services and facilities to the target areas; and

WHEREAS, The empowerment of persons and neighborhoods within the Southern Nevada Enterprise Community includes "weed and seed" strategies to "weed" out violence, gangs, drug trafficking and drug-related crime, and to "seed" neighborhoods with social services and economic revitalization; and

WHEREAS, Efforts to revitalize neighborhoods economically, to be successful, require a certain minimum level of "infrastructure" in the form of the basic facilities, services and installations needed for the proper functioning of a community; now, therefore

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

Section 1. ~~[Sections 1 to 15, inclusive, of this]~~ *This* act may be cited as the ~~[North Las Vegas]~~ *Southern Nevada Enterprise Community* Infrastructure Improvement Act.

Sec. 2. As used in sections 1 to ~~[15,]~~ *13,* inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. ~~["City" means the City of North Las Vegas.]~~ *"Advisory Board" means the Southern Nevada Enterprise Community Advisory Board created pursuant to section 8 of this act.*

Sec. 4. ~~["Commission" means the North Las Vegas Infrastructure Improvement Commission created pursuant to section 8 of this act.]~~ *(Deleted by amendment.)*

Sec. 5. "Community" means the Southern Nevada Enterprise Community, nine census tracts designated by President William Jefferson Clinton on December 21, 1994.

Sec. 6. "Infrastructure" means publicly owned or publicly supported facilities that are necessary or desirable to support intense habitation within a region, including, without limitation, parks, roads, schools, libraries, community centers, police and fire protection, sanitary sewers, facilities for mass transit and facilities for the conveyance of water and the treatment of wastewater.

Sec. 7. ~~["Program"]~~ *"Project"* means the ~~[North Las Vegas Infrastructure Improvement Program]~~ *Southern Nevada Enterprise Community Improvement Project* developed pursuant to section ~~[10]~~ *11* of this act.

Sec. 8. 1. The ~~[North Las Vegas Infrastructure Improvement Commission]~~ *Southern Nevada Enterprise Community Advisory Board* is hereby created.

2. The ~~[Commission]~~ *Advisory Board* consists of nine members, appointed in consultation with residents of the Community, as follows:

(a) ~~[Three members appointed by the Majority Leader of the Senate.~~

~~(b) Three members appointed by the Speaker of the Assembly.~~

~~(c) Three members appointed by the Governor.~~

~~➡ At least seven of the nine members appointed to the Commission must be residents of the Community.]~~ *One member of the Nevada Congressional Delegation selected from among its membership or his designee;*

(b) The State Senator that represents the Community or his designee;

(c) One member of the Clark County Board of County Commissioners selected from among its membership or his designee;

(d) One member of the Las Vegas City Council from among its membership or his designee;

(e) One member of the North Las Vegas City Council from among its membership or his designee;

(f) Two residents of the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council;

(g) A representative of the private sector appointed by the Chamber of Commerce established in the Community; and

(h) A representative of the nonprofit charitable, educational and religious organizations in the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council.

3. Each member of the ~~[Commission]~~ *Advisory Board* serves for a term of 3 years. A vacancy on the ~~[Commission]~~ *Advisory Board* must be filled in the same manner as the original appointment. A member may be reappointed to the ~~[Commission.]~~ *Advisory Board.*

4. The members of the ~~[Commission]~~ *Advisory Board* shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on August 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the ~~[Commission]~~ *Advisory Board* shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. ~~[The members of the Commission may, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the Commission.~~

~~6. A member of the Commission who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Commission and perform any work necessary to carry~~

~~out the duties of the Commission in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Commission to make up the time he is absent from work to carry out his duties as a member of the Commission or use annual vacation or compensatory time for the absence.~~

~~7.~~ The City *of North Las Vegas* shall provide administrative support for the ~~[Commission.]~~ *Advisory Board.*

Sec. 9. The primary purposes of the ~~[Commission]~~ *Advisory Board* are to:

1. Advise the ~~[governing body of the City]~~ *governmental entities that have members on the Advisory Board* with respect to the ~~[Program;]~~ *Project;* and

2. Ensure that the needs and opinions of the residents of the Community are reflected adequately by the ~~[Program.]~~ *Project.*

Sec. 10. ~~[The governing body of the City, in consultation with:~~

~~1. The Commission;~~

~~2. The governing body of Clark County;~~

~~3. Agencies of this State possessing expertise with respect to issues of land use and the development of communities; and~~

~~4. Agencies of the Federal Government possessing expertise with respect to issues of land use and the development of communities,~~

~~→ shall develop or cause to be developed the North Las Vegas Infrastructure Improvement Program.]~~ *(Deleted by amendment.)*

Sec. 11. 1. On or before January 31, 2008, the ~~[governing body of the City shall present to the Commission]~~ *Advisory Board shall prepare* a written plan to carry out the ~~[Program.]~~ *Project to address the needs and issues of the Community.*

2. The ~~[Commission]~~ *Advisory Board* shall, within 120 days after ~~[receiving]~~ *preparing* the written plan:

(a) Hold at least two public hearings on the written plan, each of which must be preceded by at least 30 days' notice ~~[;]~~ *within the Community;* and

(b) Approve or reject the written plan ~~[.]~~ *based on input from the Community received at the public hearings.*

3. ~~[The Commission shall approve or reject the written plan on the basis of whether the]~~ *A* written plan ~~[:]~~ *adopted by the Advisory Board must:*

(a) ~~[Sets]~~ *Set* forth an adequate framework for carrying out the ~~[Program;]~~ *Project;*

(b) ~~[Sets]~~ *Set* forth a reasonable period in which to accomplish the goals of the ~~[Program;]~~ *Project;* and

(c) ~~[Incorporates]~~ *Incorporate* each of the required elements of the ~~[Program,]~~ *Project,* as set forth in section 12 of this act.

4. If the ~~[Commission]~~ *Advisory Board* rejects the written plan, the ~~[Commission]~~ *Advisory Board* shall:

(a) Provide to the ~~[governing body of the City]~~ *appropriate officers of the governmental entities that have members on the Advisory Board* a written explanation of its reasons for the rejection; *and*

(b) ~~[Request that the governing body of the City submit a revised written plan; and~~

~~(c) Repeat]~~ *Prepare a revised written plan and repeat* the notice and hearings required by subsection 2 before approving or rejecting the revised written plan.

Sec. 12. The ~~[Program]~~ *Project* must include, without limitation, goals, objectives and policies relating to, and feasible timeframes for achieving:

1. The construction, repair and refurbishment of streets, buildings and other facilities as necessary to attract and maintain the viability of successful businesses within the Community;

2. ~~[The provision of adequate law enforcement, fire protection and emergency medical services, including, without limitation, particular means to ensure that such services are provided in a manner that is responsive to the residents of the Community;~~

~~3.]~~ The incorporation within the Community of open space, facilities for recreation, facilities for medical care and other measures as necessary to ensure that the Community develops with mixed uses;

~~[4.]~~ *3.* The eradication of brownfields, the rehabilitation of condemned properties and the removal of structures and facilities that create a disincentive for development; *and*

~~[5.]~~ *4.* The identification of sources of money to carry out the ~~[Program; and~~

~~6. Such other elements as the Commission may, in its discretion, require.]~~ *Project.*

Sec. 13. The ~~[City]~~ *Advisory Board* may accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the ~~[Program.]~~ *Project.*

Sec. 14. On or before February 1, 2009, the Advisory Board shall submit to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature a report that summarizes the activities of the Advisory Board during the period between the effective date of this act and December 31, 2008.

~~[Sec. 14.]~~ *Sec. 15.* The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 15.]~~ *Sec. 16.* This act becomes effective upon passage and approval.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 355.

Bill read second time.

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

Amendment No. 321.

"SUMMARY—Creates an Office of Faith-Based and Community Initiatives. (BDR 38-1314)"

"AN ACT relating to the public welfare; establishing and setting forth the duties of the Office of Faith-Based and Community Initiatives within the Department of Health and Human Services; setting forth the duties of the Office; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 11 of this bill establishes the Office of Faith-Based and Community Initiatives in the Department of Health and Human Services. Section 12 of this bill provides that the Office shall: (1) provide a central source of information for the use of the public concerning faith-based and community nonprofit organizations; (2) identify and use any available resources for the improvement of the quality of social service programs provided by faith-based and community nonprofit organizations; (3) develop and coordinate plans and programs to improve the quality of social service programs provided by faith-based and community nonprofit organizations, including, without limitation, plans and programs that primarily serve local communities; (4) whenever possible, incorporate the use of bilingual communication in its programs and activities; (5) publicize social service programs provided by faith-based and community nonprofit organizations; and (6) develop and carry out such other programs and activities as the Office deems appropriate.

Section 14 of this bill requires the Director of the Department to appoint a Manager of the Office. Section 15 of this bill provides that the Manager shall: (1) advise the Director, the Department, the Governor and the Legislature concerning matters relating to faith-based and community nonprofit organizations and social service programs in this State; (2) encourage faith-based and community nonprofit organizations to seek governmental funding; (3) identify, recommend and carry out policies related to assisting faith-based and community nonprofit organizations in the expansion of social service programs; (4) act as a liaison between faith-based and community nonprofit organizations and departments, commissions, boards and other agencies of federal, state and local governments; (5) develop and coordinate efforts to attract faith-based and community nonprofit organizations to this State; and (6) establish and maintain a clearinghouse of information regarding faith-based and community nonprofit organizations and social service programs in this State.

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

Section 1. Title 38 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~[21,]~~ *22,* inclusive, of this act.

Sec. 2. *The Legislature hereby finds and declares that:*

1. Faith-based and community nonprofit organizations are indispensable resources in serving the needs of the residents of our State and that by embracing and partnering with such organizations, the capacity of State Government to respond to the needs of the residents is strengthened.

2. Faith-based and community nonprofit organizations provide services in our State that are aimed at reducing poverty, homelessness, violence, chemical addiction and dependency, and improving the lives of low-income and vulnerable adults and children.

3. Faith-based and community nonprofit organizations should have an opportunity to seek funding from federal, state and local governments for social service programs that are separate from the religious practices of such organizations.

4. Faith-based and community nonprofit organizations have the capacity to operate social service programs as effectively and efficiently as any governmental entity that provides similar services.

5. Communication, coordination and technical assistance at the highest levels of State Government are necessary for faith-based and community nonprofit organizations to provide the social service programs needed by Nevadans.

Sec. 3. *As used in sections 2 to ~~[21,]~~ 22, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Department" means the Department of Health and Human Services.*

Sec. 5. *"Director" means the Director of the Department.*

Sec. 6. *"Faith-based and community nonprofit organization" means any organization that:*

1. The Secretary of the Treasury has determined to be tax exempt pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); and

2. Through the operation of a social service program, provides assistance to persons in this State without regard for a person's religious beliefs or affiliation.

Sec. 7. *"Governmental funding" means financial assistance provided by federal, state or local governments and includes, without limitation, grants, loans, loan programs, cooperative agreements, food commodities and appropriations.*

Sec. 8. *"Manager" means the Manager of the Office.*

Sec. 9. *"Office" means the Office of Faith-Based and Community Initiatives of the Department.*

Sec. 10. *"Social service program":*

1. Means a program that is administered by a faith-based and community nonprofit organization, which program is financed in whole or in part by governmental funding; and

2. Includes, without limitation:

(a) Daycare for children or adults.

(b) A program that provides adoption services.

(c) A program that provides counseling and support to victims or perpetrators of domestic violence.

(d) A program that provides services for adults or children with special needs or disabilities.

(e) A program for job training or placement.

(f) A program that provides food, meal preparations or services for the delivery of food.

(g) Programs to prevent or treat substance abuse.

(h) A program that provides transportation services.

(i) A program that provides health services.

(j) Literacy and educational programs for children or adults.

(k) A program that is concerned with the prevention of crime or which provides assistance to the victims of crime or to the family members of persons convicted of crimes.

(l) A program that provides services to persons upon release from prison.

(m) A program that provides housing assistance, including, without limitation, emergency shelter, transitional housing or permanent housing.

Sec. 11. *The Office of Faith-Based and Community Initiatives is hereby created within the Department. The purposes of the Office are to:*

1. Improve the quality of social service programs;

2. Increase access to social service programs; and

3. Disseminate information to the public concerning faith-based and community nonprofit organizations and the social service programs they offer.

Sec. 12. *1. In accomplishing its purposes, the Office shall:*

(a) Provide a central source of information for the use of the public concerning faith-based and community nonprofit organizations;

(b) Identify and use any available resources for the improvement of the quality of social service programs provided by faith-based and community nonprofit organizations;

(c) Develop and coordinate plans and programs to improve the quality of social service programs provided by faith-based and community nonprofit organizations, including, without limitation, plans and programs that primarily serve local communities;

(d) Whenever possible, incorporate the use of bilingual communication in its programs and activities;

(e) Publicize social service programs provided by faith-based and community nonprofit organizations; and

(f) Develop and carry out such other programs and activities as the Office deems appropriate.

2. In carrying out the duties set forth in subsection 1, the Office may seek assistance from and cooperate with any public or private entity.

Sec. 13. *The Office may:*

1. Apply for any available grants and accept any available gifts, grants, appropriations or donations, and use any such gifts, grants, appropriations or donations to carry out its purposes;

2. Contract with a public or private entity to assist the Office in carrying out its purposes; and

3. Adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 2 to ~~[21,]~~ 22, inclusive, of this act.

Sec. 14. *The Director shall appoint a Manager of the Office. The Manager must be appointed on the basis of his education, training, experience, demonstrated abilities and interest in the provision of health care services to members of minority groups, disadvantaged populations and in related programs.*

Sec. 15. *The Manager shall:*

1. Advise the Director, the Department, the Governor and the Legislature concerning matters relating to faith-based and community nonprofit organizations and social service programs in this State.

2. Encourage faith-based and community nonprofit organizations to seek funding from governmental sources.

3. At the behest of the Director, identify, recommend and carry out policies relating to assisting faith-based and community nonprofit organizations to expand social service programs.

4. Act as a liaison between faith-based and community nonprofit organizations and departments, commissions, boards and other agencies of federal, state and local government.

5. Develop and coordinate efforts to attract faith-based and community nonprofit organizations to this State.

6. Establish and maintain a clearinghouse of information regarding faith-based and community nonprofit organizations and social service programs that are available in this State.

Sec. 16. *The Office shall maintain a website on the Internet to provide to the public information that is maintained, collected or compiled by the Manager. The website must provide information on the social service programs that are offered by faith-based and community nonprofit organizations in this State.*

Sec. 17. *On or before March 1 of each odd-numbered year, the Manager shall submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. The report must outline the manner in which the Office has accomplished its purposes during the biennium, including, without limitation, setting forth information concerning the activities, findings and recommendations of the Office.*

Sec. 18. *1. The Manager may, within the limits of legislative appropriations and other available money, award a grant of money to a ~~[person]~~ faith-based and community nonprofit organization for use consistent with the provisions of sections 2 to ~~[21,]~~ 22, inclusive, of this act.*

2. Before the Manager may award a grant pursuant to subsection 1, he shall adopt by regulation:

(a) Procedures by which a ~~[person]~~ faith-based and community nonprofit organization may apply for a grant from the Manager;

(b) Criteria that the Manager will consider in determining whether to award a grant; and

(c) Procedures by which the Manager will distribute any money that the Office receives pursuant to section 13 of this act.

Sec. 19. In administering a social service program, a faith-based and community nonprofit organization that receives any governmental funding shall not:

1. Discriminate on the basis of a person's religious beliefs or affiliation.

2. Require a person to take part in any religious activity in order to participate in or receive assistance from the social service program.

~~[Sec. 19.]~~ *Sec. 20. 1. There is hereby created in the Office an Advisory Committee consisting of ~~[nine]~~ 21 members appointed by the Governor ~~[.]~~ as follows:*

(a) Seven members, each of whom represents an organization that the Secretary of the Treasury has determined to be tax exempt pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3).

(b) Seven members, each of whom represents a church, religious organization or faith-based ministry.

(c) Seven members who represent State Government.

2. When appointing a member to the Advisory Committee, consideration must be given to whether the members appointed to the Advisory Committee reflect the religious, ethnic and geographical diversity of this State.

3. The term of each member of the Advisory Committee is 2 years. A member may be reappointed for an additional term of 2 years in the same manner as the original appointment. A vacancy occurring in the membership of the Advisory Committee must be filled in the same manner as the original appointment.

4. At its first meeting and annually thereafter, the Advisory Committee shall elect a Chairman from among its members.

~~[Sec. 20.]~~ *Sec. 21. 1. ~~[Each member of the Advisory Committee created by section 19 of this act who is not an officer or employee of the State of Nevada is entitled to receive a salary of not more than $80 per day, as fixed by the Manager in consultation with the Advisory Committee, for each day or portion of a day spent on the business of the Advisory Committee. Each member of the Advisory Committee who is an officer or employee of the State of Nevada serves without additional compensation.]~~ Each member of*

the Advisory Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. A claim for a payment pursuant to this section must be made on a voucher approved by the Manager and paid as other claims against the State are paid.

2. Each member of the Advisory Committee who is an officer or employee of the State of Nevada or a local government must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee and perform any work necessary to carry out the duties of the Advisory Committee in the most timely manner practicable. A state agency or local governmental entity may not require an employee who is a member of the Advisory Committee to make up time or take annual vacation or compensatory time for the time that he is absent from work to carry out his duties as a member of the Advisory Committee.

~~[Sec. 21.]~~ *Sec. 22. The Advisory Committee created by section ~~[19]~~ 20 of this act shall:*

1. Advise the Manager on all matters concerning the manner in which the purposes of the Office are being carried out;

2. Review the manner in which the Office uses any gifts, grants, donations or appropriations to carry out the purposes of the Office, and make recommendations relevant thereto; and

3. Review any reports to be submitted by the Manager, including, without limitation, the report required pursuant to section 17 of this act, and make recommendations relevant thereto.

~~[Sec. 22.]~~ *Sec. 23.* This act becomes effective on July 1, 2007.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 357.

Bill read second time.

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

Amendment No. 301.

"SUMMARY— ~~[Authorizes the Board of Regents of the University of Nevada to administer a loan forgiveness program]~~ *Revises provisions relating to student loans administered by the Western Interstate Commission for Higher Education* for students enrolled in certain educational programs*.* ~~[at the Nevada System of Higher Education.]~~ (BDR 34-72)"

"AN ACT relating to education; ~~[authorizing the Board of Regents of the University of Nevada to administer a loan forgiveness program]~~ *revising provisions relating to student loans administered by the Western Interstate Commission for Higher Education* for students enrolled ~~[within the Nevada System of Higher Education]~~ in certain educational programs*;* ~~[designated as~~

~~high need by the Board of Regents;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Sections 2-8]~~ *Existing law directs the Governor to enter into a compact on behalf of this State to form the Western Interstate Commission for Higher Education, which coordinates the educational needs of the 13 western states for the purpose of providing higher education. (Chapter 397 of NRS) The Commission is authorized to provide loans to students enrolled in certain programs and current law provides for the terms of repayment of those loans. (NRS 397.064) Section 1* of this bill ~~[authorize the Board of Regents of the University of Nevada to administer a loan forgiveness program for students enrolled in an educational program that has been designated as a high needs area.]~~ *revises the interest rate and delinquency charge that may be charged to students who receive certain loans from the Commission.*

WHEREAS, The members of the 74th Session of the Nevada Legislature hereby recognize the need to ensure that an adequate, well-trained workforce is available to meet the immediate and future needs of the residents and employers of this State; and

WHEREAS, An evaluation of the immediate and projected workforce needs of this State would provide valuable information pertaining to the existing shortages and anticipated shortages in the workforce of this State; and

~~[WHEREAS, The Department of Employment, Training and Rehabilitation collects data and makes projections pertaining to the available workforce, the workforce needs, industries and occupations in this State, and other agencies and organizations collect similar data and information; and]~~

WHEREAS, The members of the 74th Session of the Nevada Legislature hereby urge the Board of Regents of the University of Nevada to use the projections and data that are available from the Department of Employment, Training and Rehabilitation and other agencies and organizations in identifying which educational programs offered by the Nevada System of Higher Education would strengthen Nevada's economy and the general welfare of its residents; and

WHEREAS, The Nevada System of Higher Education is in a unique position to offer those educational programs to students enrolled in the System and to thereby assist in alleviating the existing shortages and anticipated shortages in the workforce needs; and

WHEREAS, The Western Interstate Commission for Higher Education is a regional organization created by the Western Regional Education Compact to facilitate resource sharing among the higher education systems of the western states; and

WHEREAS, The Western Interstate Commission for Higher Education has developed the Health Care Access Program of Nevada to address the growing number of medically underserved citizens in rural areas of this State through an alternative loan forgiveness program; and

WHEREAS, Through the Health Care Access Program of Nevada, the Western Interstate Commission for Higher Education has the ability to financially assist the residents of Nevada who are enrolled in programs of study in health related fields, including nursing, pharmacy, physical therapy and physician assistance; and

WHEREAS, The Health Care Access Program has successfully placed 110 graduates of postsecondary education in clinics across this State in an effort to meet the medical needs of residents who live in medically underserved areas; and

WHEREAS, The members of the 74th Session of the Nevada Legislature hereby encourage the Board of Regents of the University of Nevada *and the Western Interstate Commission for Higher Education* to collaborate ~~[with persons with experience in economic forecasting, economic development, labor, business and education to assist the Board of Regents]~~ in evaluating the workforce needs of this State and offering educational programs *and incentives* to meet those needs; and

WHEREAS, The Board of Regents plays a vital role in ensuring that an adequate, well-trained workforce is available to meet the growing demands of the residents and employers of this State; now, therefore,

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

Delete existing sections 1 through 9 of this bill and replace with the following new sections 1 and 2:

Section 1. NRS 397.064 is hereby amended to read as follows:

397.064 Loans, from the Western Interstate Commission for Higher Education's Fund for Student Loans, to students who enter the program on or after July 1, 1985, must be made upon the following terms:

1. All loans must bear *a competitive* interest ~~[at 8 percent per annum]~~ *rate, which must be established by the three Nevada State Commissioners, acting jointly,* from the first day of the academic term for which the student received the loan. *The three Nevada State Commissioners, acting jointly, may delegate to the Director of the Western Interstate Commission for Higher Education the authority to establish the interest rate pursuant to this section.*

2. Except as otherwise provided in NRS 397.0617, each student receiving a loan must repay the loan with interest following the termination of his education or completion of his internship for which the loan is made.

3. The loan must be repaid in monthly installments over the period allowed, as set forth in subsection 4, with the first installment due 1 year after the date of the termination of his education or the completion of his internship for which the loan is made. The amounts of the installments may not be less than $50 and may be calculated to allow a smaller payment at the beginning of the repayment period, with each succeeding payment gradually increasing so that the total amount due will have been paid within the period allowed for repayment.

4. The three Nevada State Commissioners, acting jointly, shall, or shall delegate to the Director of the Western Interstate Commission for Higher Education the power to, schedule the repayment within the following periods:

(a) Five years for loans which total less than $10,000.

(b) Eight years for loans which total $10,000 or more but less than $20,000.

(c) Ten years for loans which total $20,000 or more.

5. A student loan may not exceed 50 percent of the student fees for any academic year.

6. A delinquency charge may be assessed on any installment delinquent 10 days or more in ~~[the]~~ *an* amount ~~[of 8 percent of the installment or $4, whichever is greater, but not more than $15.]~~ *that must be established by the three Nevada State Commissioners, acting jointly. The Nevada State Commissioners, acting jointly, may delegate to the Director of the Western Interstate Commission for Higher Education the authority to establish an appropriate delinquency charge pursuant to this subsection.*

7. The reasonable costs of collection and an attorney's fee may be recovered in the event of delinquency.

Sec. 2. This act becomes effective on July 1, 2007.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 387.

Bill read second time.

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

Amendment No. 561.

"SUMMARY—Revises various provisions governing public works and the State Public Works Board. (BDR 28-904)"

"AN ACT relating to public works; revising the membership of the State Public Works Board; revising the duties of the Manager appointed by the Board; providing for the appointment by the Board of a deputy manager for compliance and code enforcement; revising the order in which money received by the Board for a capital improvement project must be expended; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Public Works Board consists of the Director of the Department of Administration and six members appointed by the Governor. (NRS 341.020) Section ~~[10]~~ *12* of this bill provides for the abolishment of the current Board, and section 1 of this bill provides for the appointment of a new Board consisting of five members appointed by the Governor, one member appointed by the Majority Leader of the Senate and

one member appointed by the Speaker of the Assembly. Each member serves at the pleasure of the appointing authority. *Section 3 of this bill clarifies that members and employees of the Board are entitled to receive per diem allowances and travel expenses to the extent money is available for such payments. (NRS 341.050)*

Sections ~~[3, 6 and 7]~~ *4, 7 and 8* of this bill clarify that the approval required for expenditure of money for advanced planning and changes in the scope of a project is to be obtained from the Interim Finance Committee before money is committed or other action is taken. *(NRS 341.090, 341.142, 341.145) Section 10 of this bill authorizes the Interim Finance Committee to appoint a subcommittee to approve certain matters of the Board that require prior approval of the Committee. (NRS 218.6827)*

Under existing law, the Board may appoint a Manager who, with the approval of the Board, is authorized to appoint two deputy managers. (NRS 341.100) Section ~~[4]~~ *5* of this bill requires the Board to appoint a Manager ~~[who is]~~ *and a deputy manager for compliance and code enforcement, each of whom must be* approved by the Governor. *(NRS 341.100)* Section ~~[4]~~ *5* also ~~[provides]~~ *requires* the ~~[Board with the authority]~~ *Manager, with the approval of the Board,* to appoint *certain* deputy managers. ~~[and requires the Board to appoint a deputy manager for compliance and code enforcement who is in the unclassified service of the State.]~~ Additionally, section ~~[4]~~ *5 revises the recipients of and* expands the information that must be included in monthly reports ~~[to the Board, the Governor and the Interim Finance Committee]~~ *by the Manager* concerning progress on current public works projects. *Section 5 also transfers the duty to serve as the state building official from the Manager to the deputy manager for compliance and code enforcement. Sections 5 and 8 transfer final authority to approve the architecture of state buildings, plans, designs, types of construction, major repairs and designs of landscaping from the Board to the Manager. (NRS 341.100, 341.145)*

Section 8 of this bill revises the authority of the Board concerning the negotiation of revised bids on certain contracts and change orders. (NRS 341.145) Section ~~[8]~~ *9* of this bill revises the order in which money from multiple sources must be expended on public works projects. *(NRS 341.146)*

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

Section 1. NRS 341.020 is hereby amended to read as follows:

341.020 1. The State Public Works Board ~~[, consisting of the Director of the Department of Administration and six members appointed by the Governor,]~~ is hereby created . ~~[within the Department of Administration.~~

~~2. At least one of the appointed members must have a comprehensive knowledge of the principles of administration and at least one of the appointed members must have a working knowledge of the principles of engineering or architecture.]~~

2. The Board consists of seven members appointed as follows:

(a) The Governor shall appoint:

(1) One member who has education or experience, or both, regarding the principles of engineering or architecture;

(2) One member who has education or experience, or both, regarding the principles of financing or managing public or private construction projects;

(3) One member who is licensed to practice law in this State and who has experience in the practice of construction law; and

(4) Two members who are licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(b) The Majority Leader of the Senate shall appoint one member who is licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(c) The Speaker of the Assembly shall appoint one member who is licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

3. Each member of the Board serves at the pleasure of the appointing authority.

4. A vacancy on the Board must be filled by the appointing authority in the same manner as the original appointment.

Sec. 2. NRS 341.041 is hereby amended to read as follows:

341.041 *1.* If ~~[an appointed]~~ *a* member of the Board fails to attend three successive meetings of the Board, the Board shall ~~[notify the Governor]~~ *provide notice* of that fact, in writing, *to the appointing authority who appointed that member.*

2. The notice must be provided to the appointing authority within 5 days after the third successive meeting that the member fails to attend.

3. Upon receipt of the notice, the ~~[Governor]~~ *appointing authority* may appoint a person to replace the member ~~[for the unexpired term of that member.]~~ *in the same manner as filling a vacancy on the Board.*

Sec. 3. NRS 341.050 is hereby amended to read as follows:

341.050 1. Each member of the Board is entitled to receive a salary of not more than $80 per day, as fixed by the Board, while engaged in the business of the Board.

2. ~~[While]~~ *Except as otherwise provided in this subsection, while* engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowances and travel expenses must be paid from money appropriated for the use of the Board ~~[.]~~ *, to the extent such money is available.*

~~[Sec. 3.]~~ *Sec. 4.* NRS 341.090 is hereby amended to read as follows:

341.090 1. Except as *otherwise* provided in subsections 2 and 3, the Board may make expenditures necessary to carry into effect the purposes of its acts.

2. All expenditures made by the Board must be within the limits of the appropriation provided for the use of the Board, or provided from money appropriated or authorized for expenditure by the Legislature for construction work or major repairs.

3. The Board may, with the *prior* approval of the Interim Finance Committee , ~~[when the Legislature is not in regular or special session, or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session,]~~ expend money obtained from any source for advance planning of projects of capital improvement. For the purposes of this subsection, "advance planning" means the preparation of floor plans, cross sections, elevations, outlines of specifications, estimates of cost by category of work and perspective renderings of the project.

~~[Sec. 4.]~~ *Sec. 5.* NRS 341.100 is hereby amended to read as follows:

341.100 1. The Board ~~[may]~~ *shall* appoint a Manager ~~[who]~~ *and a deputy manager for compliance and code enforcement, each of whom must be approved by the Governor. The Manager* ~~[serves]~~ *and the deputy manager for compliance and code enforcement serve* at the pleasure of the Board and the Governor. ~~[The Board or the Governor may remove the Manager for inefficiency, neglect of duty, malfeasance or for other just cause.]~~

2. The Manager, with the approval of the Board, ~~[may]~~ *shall* appoint *:* ~~[a]~~ ~~*[Board shall appoint the following deputy managers who must be approved by the Governor:]*~~

(a) A deputy *manager* for professional services ~~[and a]~~ *; and*

(b) A deputy *manager* for administrative, fiscal and constructional services . ~~[In addition, the]~~ ~~*[; and*~~

~~*(c) A deputy manager for compliance and code enforcement.*~~

~~*3.]*~~

➥ *Each deputy manager appointed pursuant to this subsection serves at the pleasure of the* ~~*[Board and the Governor.]*~~ *Manager.*

~~*[4.]*~~ *3. The* Manager may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

~~[3.]~~ ~~*[5.]*~~ *4.* The Manager and ~~[his deputies]~~ *each deputy manager* are in the unclassified service of the State. Except as otherwise provided in NRS 284.143,

the Manager and each deputy *manager* shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

~~[4.]~~ ~~*[6.]*~~ *5.* The Manager and ~~[his]~~ *the* deputy *manager* for professional services must each be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS.

~~[7.]~~ *6.* The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of *the* principles of administration and a working knowledge of *the* principles of engineering or architecture as determined by the Board.

~~[5.]~~ ~~[8.]~~ *7. The deputy manager for compliance and code enforcement must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the Board.*

~~[9.]~~ *8.* The Manager shall:

(a) Serve as the Secretary of the Board.

(b) Manage the daily affairs of the Board.

(c) Represent the Board before the Legislature.

(d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.

(e) Make recommendations to the Board for the selection of architects, engineers and contractors.

(f) Make recommendations to the Board concerning the acceptance of completed projects.

(g) ~~[Advise]~~ *Submit in writing to* the Board *, the Governor* and the ~~[Legislature, or the]~~ Interim Finance Committee ~~[if the Legislature is not in session, on]~~ a monthly ~~[basis of the progress of]~~ *report regarding* all public works projects which are a part of the approved capital improvement program.

~~[(h) Serve]~~ *For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:*

(1) Changes in the scope of the design or construction of the project or any substantial component of the project which ~~[increases or decreases the square footage]~~ increase or decrease the total awarded contract price of the project by ~~[10]~~ 15 percent or more ~~[;]~~ or $200,000 or more, whichever is greater;

(2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;

(3) Delays in the completion of the design or construction of the project or any substantial component of the project; or

(4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

~~[10.]~~ *9.* *The deputy manager for compliance and code enforcement shall serve* as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government.

~~[Sec. 5.]~~ *Sec. 6.* NRS 341.105 is hereby amended to read as follows:

341.105 1. When acting in the capacity of building official pursuant to ~~[paragraph (h) of subsection 5]~~ *subsection ~~[10]~~* 9 of NRS 341.100, the ~~[Manager]~~ *deputy manager for compliance and code enforcement* or his designated representative may issue an order to compel the cessation of work on all or any portion of a building or structure based on health or safety reasons or for violations of applicable building codes or other laws or regulations.

2. If a person receives an order issued pursuant to subsection 1, the person shall immediately cease work on the building or structure or portion thereof.

3. Any person who willfully refuses to comply with an order issued pursuant to subsection 1 or who willfully encourages another person to refuse to comply or assists another person in refusing to comply with such an order is guilty of a misdemeanor and shall be punished as provided in NRS 193.150. Any penalties collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

4. In addition to the criminal penalty set forth in subsection 3, the ~~[Manager]~~ *deputy manager for compliance and code enforcement* may impose an administrative penalty of not more than $1,000 per day for each day that a person violates subsection 3.

5. If a person wishes to contest an order issued to him pursuant to subsection 1, the person may bring an action in district court. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. An action brought pursuant to this subsection does not stay enforcement of the order unless the district court orders otherwise.

6. If a person refuses to comply with an order issued pursuant to subsection 1, the ~~[Manager]~~ *deputy manager for compliance and code enforcement* may bring an action in the name of the State of Nevada in district court to compel compliance and to collect any administrative penalties imposed pursuant to subsection 4. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. Any attorney's fees and costs awarded by the court in favor of the State and any penalties collected in the action must be deposited with the State Treasurer for credit to the State General Fund.

7. No right of action exists in favor of any person by reason of any action or failure to act on the part of the Board, the ~~[Manager]~~ *deputy manager for compliance and code enforcement* or any officers, employees or agents of the Board in carrying out the provisions of this section.

8. As used in this section, "person" includes a government and a governmental subdivision, agency or instrumentality.

~~[Sec. 6.]~~ *Sec. 7.* NRS 341.142 is hereby amended to read as follows:

341.142 The Board may, with the *prior* approval of the Interim Finance Committee , ~~[when the Legislature is not in regular or special session, or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session,]~~ plan a project in advance by preparing floor

plans, cross sections, elevations, outlines of specifications, estimates of cost by category of work and perspective renderings of the project. The Board may submit preliminary or advance plans or designs to qualified architects or engineers for preparation of detailed plans and specifications if the Board considers it desirable. The cost of preparation of preliminary or advance plans or designs, the cost of detailed plans and specifications, and the cost of all architectural and engineering services are charges against the appropriations made by the Legislature for any state buildings or projects, or buildings or projects planned or contemplated by any state agency for which the Legislature has appropriated or may appropriate money. The costs must not exceed the limitations that are or may be provided by the Legislature.

~~[Sec. 7.]~~ *Sec. 8.* NRS 341.145 is hereby amended to read as follows:

341.145 The Board:

1. ~~[Has final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.~~

~~2.]~~ Shall determine whether any rebates are available from a public utility for installing devices in any state building which are designed to decrease the use of energy in the building. If such a rebate is available, the Board shall apply for the rebate.

~~[3.]~~ *2.* Shall solicit bids for and let all contracts for new construction or major repairs.

~~[4.]~~ *3.* May negotiate with ~~[the lowest]~~ *any* responsible and responsive bidder on any contract to obtain a revised bid if:

(a) The bid is less than the appropriation made by the Legislature for that building project; and

(b) ~~[The bid does not exceed]~~ *All the bids received on the contract exceeded* the relevant budget item for that building project as established by the Board by more than 10 percent.

~~[5.]~~ *4.* May reject any or all bids.

~~[6.]~~ *5.* After the contract is let, shall supervise and inspect construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.

~~[7.]~~ *6.* Shall obtain *prior* approval from the Interim Finance Committee ~~[when the Legislature is not in regular or special session, or from the Legislature by concurrent resolution when the Legislature is in regular or special session, for]~~ *before authorizing* any change in the scope of the design or construction of a project as that project was authorized by the Legislature ~~[. The Board shall adopt by regulation criteria for determining whether a change in the scope of the design or construction of a project requires such approval.~~

~~8. May]~~ *, if the change increases or decreases the ~~[square footage]~~ total awarded contract price of the project by ~~[10]~~ 15 percent or more ~~[.]~~ or $200,000 or more, whichever is greater.*

~~[8.]~~ *7. Except for changes that require prior approval pursuant to subsection* ~~[7,]~~ *6, may* authorize change orders, before or during construction:

(a) In any amount, where the change represents a reduction in the total awarded contract price.

(b) Except as otherwise provided in paragraph (c), not to exceed in the aggregate ~~[10]~~ *15* percent of the total awarded contract price, where the change represents an increase in that price.

(c) In any amount, where the total awarded contract price is less than ~~[$10,000]~~ *$50,000* and the change represents an increase not exceeding the amount of the total awarded contract price.

~~[9.]~~ *(d) In any amount, where additional money was authorized or appropriated by the Legislature and issuing a new contract would not be in the best interests of the State.*

8. Shall specify in any contract with a design professional the period within which the design professional must prepare and submit to the Board a change order that has been authorized by the design professional. As used in this subsection, "design professional" means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.

~~[10.]~~ *9.* Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State Government as completed or to require necessary alterations to conform to the contract or to codes adopted by the Board, and to file the notice of completion and certificate of occupancy for the building or structure.

~~[Sec. 8.]~~ *Sec. 9.* NRS 341.146 is hereby amended to read as follows:

341.146 1. The Board shall establish funds for projects of capital construction necessary to account for the program of capital construction approved by the Legislature. These funds must be used to account for all revenues, appropriations and expenditures restricted to constructing buildings and other projects which come under the supervision of the Board.

2. If a state department, board, commission or agency provides to the Board money that has not been appropriated by the Legislature for a capital improvement project, any interest earned on that money accrues to the benefit of the project. Upon a determination by the Board that the project is completed, the Board shall return any principal and interest remaining on that money to the department, board, commission or agency that had provided the money to the Board.

3. Except as otherwise provided in subsection 4, if the money actually received by the Board for a capital improvement project includes money from more than one source, the money must be expended in the following order:

(a) Money received for the project from the Federal Government;

(b) Money generated by the state department, board, commission or agency for whom the project is being performed;

(c) Money that was approved for the same or a different project during a previous biennium that has been reallocated during the current biennium for the project;

(d) ~~[Proceeds]~~ *Except as otherwise provided in paragraphs (e), (f) and (g), money received for the project from any other source;*

(e) Money from the issuance of general obligation bonds;

~~[(e)]~~ *(f) Money from the State Highway Fund; and*

(g) Money from the State General Fund . ~~[; and~~

~~(f) Any other source of money for the project.]~~

4. The provisions of subsection 3 do not apply if the receipt of any money from the Federal Government for the project is conditioned upon a different order of expenditure.

~~[Sec. 9.]~~ *Sec. 10.* NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, *subsection 3 of NRS 341.090, NRS 341.142, subsection* ~~*[7]*~~ *6 of NRS 341.145,* NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to approve matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145.

~~[Sec. 10.]~~ *Sec. 11.* NRS 341.030 is hereby repealed.

~~[Sec. 11.]~~ *Sec. 12.* 1. Notwithstanding the provisions of any specific statute to the contrary, the term of each person serving as a member of the State Public Works Board on June 30, 2007, expires on that date.

2. Each appointing authority described in NRS 341.020, as amended by section 1 of this act, shall, as soon as practicable after the effective date of this section, make his respective appointment of members to the State Public Works Board as required by that section. The term of each member so appointed begins on July 1, 2007.

3. A person serving as a member of the State Public Works Board before July 1, 2007, may be appointed to the Board pursuant to NRS 341.020, as

amended by section 1 of this act, if the person has the qualifications for membership set forth in that section.

~~[Sec. 12.]~~ *Sec. 13.* 1. This section and section ~~[11]~~ *12* of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective upon passage and approval for the purpose of appointing members to the State Public Works Board, and on July 1, 2007, for all other purposes.

3. Sections 2 to ~~[10,]~~ *11,* inclusive, of this act become effective on July 1, 2007.

TEXT OF REPEALED SECTION

341.030 Terms of members.

1. The members of the Board shall be appointed for terms of 4 years.

2. The term of office of each member shall begin July 1 of the year of his appointment.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 399.

Bill read second time.

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

Amendment No. 236.

"SUMMARY—Requires the Division of Child and Family Services of the Department of Health and Human Services to coordinate with and assist *certain organizations in recruiting and training providers of family foster care and* each agency which provides child welfare services in recruiting, training and licensing providers of family foster care. (BDR 38-86)"

"AN ACT relating to child welfare; requiring the Division of Child and Family Services of the Department of Health and Human Services to coordinate with and assist *certain organizations in recruiting and training providers of family foster care and* each agency which provides child welfare services in recruiting, training and licensing providers of family foster care; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill revises provisions concerning the duties of the Division of Child and Family Services of the Department of Health and Human Services to specifically require the Division to coordinate with and assist *certain nonprofit and community-based organizations in recruiting and training providers of family foster care and* each agency which provides child welfare services in recruiting, training and licensing providers of family foster care. (NRS 432B.180)

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

Section 1. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. Plan, coordinate and monitor the delivery of child welfare services provided throughout the State.

3. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

4. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.

5. Involve communities in the improvement of child welfare services.

6. Evaluate all child welfare services provided throughout the State and withhold money from any agency providing child welfare services which is not complying with the regulations adopted by the Division of Child and Family Services.

7. Evaluate the plans submitted for approval pursuant to NRS 432B.395.

8. In consultation with each agency which provides child welfare services, request sufficient money for the provision of child welfare services throughout this State.

9. Coordinate with and assist ~~[each]~~ :

(a) Each agency which provides child welfare services in recruiting, training and licensing providers of family foster care as defined in NRS 424.017 ~~[.]~~ ; and

(b) A nonprofit or community-based organization in recruiting and training providers of family foster care as defined in NRS 424.017 if the Division determines that the organization provides a level of training that is equivalent to the level of training provided by an agency which provides child welfare services.

Sec. 2. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 400.

Bill read second time.

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

Amendment No. 323.

"SUMMARY—Establishes the ~~[Scholarship]~~ Program *of School Choice* for Children in Foster Care. (BDR 34-875)"

"AN ACT relating to education; establishing the ~~[Scholarship]~~ Program *of School Choice* for Children in Foster Care to be administered by the Department of Education; authorizing the legal guardians or custodians of certain ~~[pupils]~~ *children* who are in foster care to apply to the Department to participate in the ~~[Scholarship]~~ Program; ~~[revising provisions governing the apportionment of money from the State Distributive School Account to provide for the payment of money for the education of pupils who participate in the Scholarship Program;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the system of public education in this State. (Title 34 of NRS) Sections 2-20 of this bill establish the ~~[Scholarship]~~ Program *of School Choice* for Children in Foster Care for certain pupils who are in foster care, to be administered by the Department of Education. ~~[A public school or licensed private school may submit an application to the Department to become certified as an eligible school under the Scholarship Program.]~~ The legal guardian or custodian of a ~~[pupil]~~ *child* who is in foster care may apply to participate in the ~~[Scholarship]~~ Program and enroll in ~~[an eligible school.]~~ *a public school other than the public school which the child is zoned to attend.* A ~~[pupil]~~ *child* who participates in the ~~[Scholarship]~~ Program ~~[and is enrolled in an eligible school]~~ is included in the count of pupils in the school district in which the child attends school for purposes of apportionments and allowances from the State Distributive School Account.

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

Section 1. Title 34 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 20, 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 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Custodian" has the meaning ascribed to it in NRS 432B.060.*

Sec. 4. ~~*["Eligible school" means a public school or private school that is certified by the Department pursuant to section 11 of this act.]*~~ *(Deleted by amendment.)*

Sec. 5. *"Foster home" has the meaning ascribed to it in NRS 424.014.*

Sec. 6. ~~*["Individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).]*~~ *(Deleted by amendment.)*

Sec. 7. ~~*["Private school" has the meaning ascribed to it in NRS 394.103.]*~~ *(Deleted by amendment.)*

Sec. 8. ~~*["Scholarship]*~~ *" Program" means the ~~[Scholarship]~~ Program of School Choice for Children in Foster Care established pursuant to section 9 of this act.*

Sec. 9. *1. There is hereby established the ~~[Scholarship]~~ Program of School Choice for Children in Foster Care, to be administered by the Department.*

2. The State Board shall adopt regulations:

(a) ~~[Prescribing the process for the submission of an application by a public school or private school to become certified as an eligible school and the contents of the application, including, without limitation, the type of proof of financial viability required of a private school;~~

~~(b)]~~ Prescribing the process for the submission of an application by a legal guardian or custodian of a child, as applicable, to participate in the ~~[Scholarship]~~ Program;

~~[~~ ~~(c) Prescribing the method for determining the proportionate cost of providing a special education to a child, if applicable, based on the individualized education program of the child, who participates in the Scholarship Program for purposes of determining the amount of the scholarship for that child; and~~

~~(d)]~~ and

(b) As are necessary to carry out the provisions of this chapter.

3. The Department shall ~~[:~~

~~(a) Provide]~~ provide information to the general public concerning the ~~[Scholarship]~~ Program.

~~[~~ ~~(b) Maintain a list available for public inspection that identifies the eligible schools.]~~

Sec. 10. ~~*[1. A private school may submit to the Department an application to become certified as an eligible school. The application must include:*~~

~~*(a) Proof that the private school is licensed pursuant to chapter 394 of NRS;*~~

~~*(b) Proof that the private school is financially viable, as determined by the Department in accordance with the regulations adopted by the State Board pursuant to section 9 of this act;*~~

~~*(c) A written statement that the private school does not discriminate on the basis of race, ethnicity or religion; and*~~

~~*(d) The number of children from the Scholarship Program that the private school is able to accommodate.*~~

~~*2. A public school may submit to the Department an application to become certified as an eligible school. The application must include:*~~

~~*(a) A written statement that the public school will not accept children from the Scholarship Program who reside in the school district in which the public school is located; and*~~

~~*(b) The number of children from the Scholarship Program that the public school is able to accommodate.]*~~ *(Deleted by amendment.)*

Sec. 11. ~~*[1. Upon receipt of an application submitted pursuant to section 10 of this act, the Department shall approve the application if it is complete and if it complies with this chapter and the regulations applicable*~~

~~*to eligible schools. The Department shall provide written notice to the applicant of its approval or denial of the application. If an application is denied, the written notice must indicate the reason for the denial.*~~

~~*2. If an application is approved, the Department and the public school or private school shall enter into a written agreement which certifies that the public school or private school is an eligible school.*~~

~~*3. The Department shall not interfere with the operation or management of a private school that is certified as an eligible school except as authorized by this chapter and chapter 394 of NRS.*~~

~~*4. The certification of an eligible school pursuant to this section remains valid indefinitely unless:*~~

~~*(a) The Department revokes the certification pursuant to section 12 of this act; or*~~

~~*(b) The eligible school requests that the Department revoke the certification.]*~~ *(Deleted by amendment.)*

Sec. 12. ~~*[1. The Department shall revoke the certification of a private school as an eligible school if the:*~~

~~*(a) Private school fails to comply with the provisions of this chapter or the regulations adopted by the State Board pursuant to section 9 of this act;*~~

~~*(b) License of the private school is revoked pursuant to chapter 394 of NRS; or*~~

~~*(c) Private school fails to demonstrate financial viability on an ongoing basis as may be required by the Department.*~~

~~*2. The Department shall revoke the certification of a public school as an eligible school if the public school:*~~

~~*(a) Fails to comply with the provisions of this chapter or the regulations adopted by the State Board pursuant to section 9 of this act; or*~~

~~*(b) Accepts for enrollment a child from the Scholarship Program who resides in the school district in which the public school is located.*~~

~~*3. As soon as practicable after revoking the certification of a public school or private school pursuant to this section, the Department shall provide notice of the revocation to the parent, legal guardian or custodian of each child, as applicable, who participates in the Scholarship Program and is enrolled in that public school or private school. Upon revocation, each child must be allowed to:*~~

~~*(a) In the manner required by the Department, request a transfer to another eligible school; or*~~

~~*(b) Enroll in the public school that he is otherwise zoned to attend.]*~~ *(Deleted by amendment.)*

Sec. 13. ~~*[1. An eligible school shall:*~~

~~*(a) Comply with all laws and regulations relating to antidiscrimination and civil rights;*~~

~~*(b) If the eligible school is a private school, provide, upon the request of the Department, proof of financial viability in accordance with the regulations adopted by the State Board pursuant to section 9 of this act;*~~

~~*(c) Provide to the parent, legal guardian or custodian of each child, as applicable, who participates in the Scholarship Program a regular report on the academic progress of the child; and*~~

~~*(d) Comply with the provisions of this chapter and the regulations adopted by the State Board pursuant to section 9 of this act.*~~

~~*2. For all legal intents and purposes, a private school that is certified as an eligible school pursuant to this chapter is not a public employer.]*~~ *(Deleted by amendment.)*

Sec. 14. *1.* ~~*[Except as otherwise provided in this subsection, the]*~~ *The legal guardian or custodian of a child may submit to the Department an application to participate in the* ~~*[Scholarship]*~~ *Program if:*

(a) The child has been placed in a foster home; and

(b) The child is enrolled in a public school or is not enrolled in a school because he has not attained the age required for enrollment . ~~*[; and*~~

~~*(c) An eligible school has accepted the child for admission.*~~

~~*2. A child may enroll in an eligible school that is a public school only if the public school is located outside the school district in which the child resides.]*~~

2. A legal guardian or custodian of a child, as applicable ~~*[, may]*~~ *:*

(a) Must include in the application the name of the public school in which the child is enrolled, if applicable, and the name of the school in which the legal guardian or custodian of the child wishes to enroll the child. The public school in which the child wishes to enroll does not have to be located in the school district in which the child resides.

(b) May include in the application a statement describing the reason for requesting that the child participate in the ~~*[Scholarship]*~~ *Program.*

3. Upon receipt of an application pursuant to subsection 1, the Department shall notify the school district in which the child resides and the school district in which the child wishes to enroll, if applicable, that an application to participate in the ~~*[Scholarship]*~~ *Program has been submitted* ~~*[. The school district in which the child resides shall, within 3 business days after receiving such notice, provide to the Department a copy of the current individualized education program of the child, if any.]*~~ *on behalf of the child.*

4. The Department shall approve an application if the application satisfies the requirements of ~~*[subsection]*~~ *subsections 1* ~~*[,]*~~ *and 2.*

5. Upon approval of an application, the Department shall provide a written statement of approval to the legal guardian or custodian of the child, as applicable, and the ~~*[eligible]*~~ *public school in which the child will be enrolled. Upon denial of an application, the Department shall provide a written statement of denial to the legal guardian or custodian of the child indicating the reason for the denial.*

6. ~~*[A child participating in the Scholarship Program who is a pupil with a disability and who is enrolled in a private school that is an eligible school shall be deemed enrolled in the private school by his legal guardian or custodian, as applicable, pursuant to the Individuals with Disabilities*~~

~~*Education Act, 20 U.S.C. § 1412, rather than placed or referred for placement in the private school by the State or a local school district.]*~~ *In determining whether to accept or deny an application submitted pursuant to subsection 1, the Department, in coordination with the board of trustees of the school district in which the child resides and the board of trustees of the school district in which the child wishes to attend school, if applicable, shall consider the best interests of the child in continuing the child's education in the public school in which the child was enrolled before he was placed in a foster home or in transferring to another public school within this State. Every effort must be made to enroll the child in the public school requested by the legal guardian or custodian of the child pursuant to subsection 2.*

7. Neither the board of trustees of the school district in which the child resides nor the board of trustees in which the child attends school , if applicable, is required to provide transportation for the child to attend ~~[the eligible school.~~

~~*8. The participation of a child who is a pupil with a disability in the Scholarship Program does not imply that the public school or school district in which the child was previously enrolled failed to provide a free appropriate public education for the child in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.]*~~ *a public school which the child is not zoned to attend.*

Sec. 15. *1. A child may continue to participate in the ~~[Scholarship]~~ Program, even if the child is no longer placed in a foster home, if the child is enrolled in good standing in ~~[an eligible school]~~ the public school in which the child is enrolled pursuant to the Program and until the child:*

(a) Attains 21 years of age; or

(b) Graduates from high school,

➥ *whichever occurs first.*

2. ~~[Before renewing a scholarship to a child for any subsequent school year, the Department shall require the eligible school or the parent, legal guardian or custodian of the child, as applicable, to provide documentation as deemed necessary by the Department to demonstrate that the child continues to remain eligible to participate in the Scholarship Program. A scholarship is forfeited if an eligible school or a parent, legal guardian or custodian, as applicable, fails to comply with this subsection.~~

~~3.]~~ The parent, legal guardian or custodian of a child, as applicable, who participates in the ~~[Scholarship]~~ Program may:

(a) In the manner required by the Department, request a transfer of the child to another ~~[eligible]~~ public school.

(b) Withdraw his child from participation in the ~~[Scholarship]~~ Program at any time upon written notice to the Department.

~~[4.]~~ 3. If a child withdraws from the ~~[Scholarship]~~ Program, he must be allowed to enroll in the public school that he is otherwise zoned to attend.

Sec. 16. *If more children who participate in the ~~[Scholarship]~~ Program apply for enrollment in ~~[an eligible]~~ a public school than the number of*

spaces which are available at that school, the ~~[eligible school]~~ Department shall ~~[:~~

~~1. Determine]~~ determine which applicants to enroll at random on the basis of a lottery system. ~~[; and~~

~~2. Provide to the Department written evidence that the school complied with the provisions of this section.~~

~~"~~ If the Department determines that the eligible school did not comply with the lottery system required by this section, the Department may withdraw the certification of the eligible school.~~]~~

Sec. 17. *~~[A private school that is certified as an eligible school shall not require a child who participates in the Scholarship Program to participate in any religious activity.]~~ (Deleted by amendment.)*

Sec. 18. *~~[1.]~~ If a child participates in the ~~[Scholarship]~~ Program, ~~[and is enrolled in an eligible school,]~~ the child must be included in the count of pupils in the school district in which the child attends school for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive. ~~[In addition to the basic support per pupil, the eligible school must receive the proportionate cost of providing a special education to the child, if applicable, as determined in accordance with the regulations adopted pursuant to section 9 of this act. The Department is not required to issue a scholarship to a child who is enrolled in a public school that is certified as an eligible school but shall ensure that the child is included in the count of pupils in the school district in which he attends school and that the eligible school receives the proportionate cost of providing a special education to the child.~~*

~~2. A private school that is certified as an eligible school shall submit to the Department a list of names of the children who participate in the Scholarship Program and are accepted for enrollment in the private school. Upon receipt of such a list, the Department shall verify that each child identified on the list has been approved for participation in the Scholarship Program. After the Department verifies the list of names, the Department shall issue a scholarship to each parent, legal guardian or custodian of a child, as applicable, who is approved for participation in the Scholarship Program and accepted for enrollment in a private school that is certified as an eligible school. The parent, legal guardian or custodian, as applicable, shall restrictively endorse the scholarship for use by the private school which the child attends and submit the scholarship to that private school.~~

~~3. A private school that is certified as an eligible school may submit to the Department all scholarships that it receives which are endorsed for payment. A parent, legal guardian or custodian of a child, as applicable, may not submit a scholarship directly to the Department for payment. Upon receipt of all scholarships from a private school that is certified as an eligible school, the Department shall pay to the private school for each child~~

~~*who participates in the Scholarship Program and is enrolled in the private school, an amount equal to the:*~~

~~*(a) Sum of the basic support per pupil in the county in which the child attends school plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the child attends school; and*~~

~~*(b) Proportionate cost of providing a special education to the child, if applicable, as determined in accordance with the regulations adopted pursuant to section 9 of this act.]*~~

Sec. 19. ~~*[Upon request of a parent, legal guardian or custodian of a child, as applicable, who is participating in the Scholarship Program and enrolled in a private school that is certified as an eligible school, the board of trustees of the school district in which the child attends school shall provide to the parent, legal guardian or custodian of the child, as applicable, a list of times and locations at which the child may take an examination that is administered pursuant to NRS 389.550 and the high school proficiency examination that is administered pursuant to NRS 389.015.]*~~ *(Deleted by amendment.)*

Sec. 20. *1. The Department may enter into a contract with one or more qualified, independent consultants to conduct an evaluation of the* ~~*[Scholarship]*~~ *Program established pursuant to this chapter.*

2. If an evaluation is conducted pursuant to subsection 1, the evaluation must include:

(a) The level of satisfaction reported by the children who participate in the ~~*[Scholarship]*~~ *Program;*

(b) The level of satisfaction reported by the parents, legal guardians or custodians of the children who participate in the ~~*[Scholarship]*~~ *Program;*

(c) The effectiveness of the ~~*[Scholarship]*~~ *Program, including, without limitation, a determination whether the academic achievement of children who participate in the* ~~*[Scholarship]*~~ *Program has improved; and*

(d) ~~*[The number of children who participate in the Scholarship Program and who exhibited behavioral problems while attending an eligible school as compared to the behavioral problems those children exhibited before enrollment in an eligible school;*~~

~~*(e) The average class size of classes in which children who participate in the Scholarship Program are placed while attending an eligible school;*~~

~~*(f) The fiscal impact on the State and on each school district; and*~~

~~*(g)]*~~ *Any other items deemed necessary by the Department.*

3. If an evaluation is conducted pursuant to this section, the Department:

(a) Shall submit a copy of the final written report of the evaluation to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) May receive and accept gifts and grants from any source to pay the costs associated with the evaluation.

Sec. 21. ~~[NRS 385.310 is hereby amended to read as follows:~~

~~385.310 The Deputy Superintendent for Administrative and Fiscal Services, under the direction of the Superintendent of Public Instruction, shall:~~

~~1. Determine the apportionment of all [state school] money *for the system of public education* to schools of the State as prescribed by law.~~

~~2. Develop for public schools of the State a uniform system of budgeting and accounting. The system must provide for the separate reporting of expenditures for each:~~

~~(a) School district; and~~

~~(b) School within a school district.~~

~~➡ Upon approval of the State Board, the system is mandatory for all public schools in this State and must be enforced as provided in subsection 2 of NRS 385.315.~~

~~3. Carry on a continuing study of school finance in the State, particularly the method by which schools are financed on the state level, and make such recommendations to the Superintendent of Public Instruction for submission to the State Board as he deems advisable.~~

~~4. Recommend to the Superintendent of Public Instruction for submission to the State Board such changes in budgetary and financial procedures as his studies may show to be advisable.~~

~~5. Perform such other statistical and financial duties pertaining to the administration and finances of the schools of the State as may be required by the Superintendent of Public Instruction.~~

~~6. Prepare for the Superintendent of Public Instruction the biennial budgets of the Department for consideration by the State Board and submission to the Governor.]~~ *(Deleted by amendment.)*

Sec. 22. ~~[NRS 386.415 is hereby amended to read as follows:~~

~~386.415 1. The board of trustees of any school district may enter into an agreement with any [individual,] *person,* firm, partnership, corporation, association or public agency which has been approved for such purpose by the Aging Services Division of the Department of Health and Human Services, whereby the school district agrees to prepare hot lunches for persons 60 years of age or older and their spouses or any group of such persons by utilizing the systems and procedures already developed for use in the school lunch program of [such] *the* district.~~

~~2. No agreement entered into by a board of trustees of a school district pursuant to the provisions of this section may:~~

~~(a) Involve the expenditure by the school district of any school lunch money or other *money for the system of* public [school money] *education* or the use of any school lunch commodities or public school personnel, equipment or facilities unless the agreement includes a provision requiring full reimbursement therefor.~~

~~(b) Provide for payment to the school district of any amount in excess of the estimated actual cost of food, personnel, equipment, facilities and other necessary expenditures involved in the performance of the agreement. The~~

~~estimated actual cost [shall] *must* be negotiated by the board of trustees and the Aging Services Division of the Department of Health and Human Services.~~

~~(c) Permit any program of hot lunches for persons 60 years of age or over and their spouses to interfere in any way with the use of school lunch facilities for public school purposes.]~~ *(Deleted by amendment.)*

Sec. 23. ~~[NRS 386.570 is hereby amended to read as follows:~~

~~386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.~~

~~2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.~~

~~3. Upon completion of a school year, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school year if the sponsor provided administrative services during that school year. Upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district, if the board of trustees sponsors the charter school, or to the Department if the State Board sponsors the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~4. If the State Board is the sponsor of a charter school, the amount of money that may be paid to the Department pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection [5] 7 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.~~

~~6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.~~

~~7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.~~

~~8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.]~~ *(Deleted by amendment.)*

Sec. 24. ~~[NRS 387.040 is hereby amended to read as follows:~~

~~387.040 1. Except as otherwise provided in subsection 2 and NRS 387.528, the State Treasurer shall pay over all *money for the system of* public [school money] *education* received by him for the support of school districts only on warrants of the State Controller issued upon the orders of the Superintendent of Public Instruction in favor of county treasurers. When endorsed, the orders are valid vouchers in the hands of the State Controller for the disbursement of *money for the system of* public [school money.] *education.*~~

~~2. Except as otherwise provided in NRS 387.528, if the board of trustees of a school district establishes and administers a separate account pursuant to the provisions of NRS 354.603, the State Treasurer shall pay over to the school district all *money for the system of* public [school money] *education* due the school district.~~

~~3. The State Treasurer shall pay over all *money for the system of* public [school money] *education* received by him for the support of charter schools only on warrants of the State Controller issued upon the orders of the Superintendent of Public Instruction in favor of the charter schools. When endorsed, the orders are valid vouchers in the hands of the State Controller for the disbursement of *money for the system of* public [school money.] *education.]* *(Deleted by amendment.)*~~

Sec. 25. ~~[NRS 387.045 is hereby amended to read as follows:~~

~~387.045 1. [No] *Except as otherwise provided in section 18 of this act, no* portion of the *money for the system of* public [school funds] *education* or of the money specially appropriated for the purpose of *the system of* public [schools shall] *education may* be devoted to any other object or purpose.~~

~~2. No portion of the *money for the system of* public [school funds shall] *education may* in any way be segregated, divided or set apart for the *direct* use or benefit of any sectarian or secular society or association.]~~ *(Deleted by amendment.)*

Sec. 26. ~~[NRS 387.121 is hereby amended to read as follows:~~

~~387.121 The Legislature declares that the proper objective of state financial aid to *the system of* public education is to ensure each Nevada child a reasonably equal educational opportunity. Recognizing wide local variations in wealth and costs per pupil, this State should supplement local financial ability to whatever extent necessary in each school district to provide programs of instruction in both compulsory and elective subjects that offer full opportunity for every Nevada child to receive the benefit of the purposes for which *the system of* public [schools are] *education is* maintained. Therefore the quintessence of the State's financial obligation for such programs can be expressed in a formula partially on a per pupil basis and partially on a per program basis as: State financial aid to school districts equals the difference between school district basic support guarantee and local available funds produced by mandatory taxes minus all the local funds attributable to pupils who reside in the county but attend a charter school [.] *or who receive a scholarship pursuant to sections 2 to 20, inclusive, of this*~~

~~*act and enroll in a private school that is certified as an eligible school pursuant to section 11 of this act.* This formula is designated the Nevada Plan.]~~ *(Deleted by amendment.)*

Sec. 27. ~~[NRS 387.1211 is hereby amended to read as follows:~~

~~387.1211 As used in NRS 387.121 to 387.126, inclusive:~~

~~1. "Average daily attendance" means the total number of pupils attending a particular school each day during a period of reporting divided by the number of days school is in session during that period.~~

~~2. "Enrollment" means the count of pupils *who:*~~

~~*(a) Are* enrolled in and scheduled to attend programs of instruction of a school district ;~~

~~*(b) Receive a scholarship pursuant to sections 2 to 20, inclusive, of this act;* or~~

~~*(c) Are enrolled in* a charter school ,~~

~~" at a specified time during the school year.~~

~~3. "Special education program unit" means an organized unit of special education and related services which includes full-time services of persons licensed by the Superintendent of Public Instruction or other appropriate licensing body, providing a program of instruction in accordance with minimum standards prescribed by the State Board.]~~ *(Deleted by amendment.)*

Sec. 28. ~~[NRS 387.1233 is hereby amended to read as follows:~~

~~387.1233 1. Except as otherwise provided in subsection 2, basic support of each school district must be computed by:~~

~~(a) Multiplying the basic support guarantee per pupil established for that school district for that school year by the sum of:~~

~~(1) Six-tenths the count of pupils enrolled in the kindergarten department on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school *and any pupils who attend kindergarten in an eligible school in the school district and receive a scholarship pursuant to sections 2 to 20, inclusive, of this act* on the last day of the first school month of the school district for the school year.~~

~~(2) The count of pupils enrolled in grades 1 to 12, inclusive, on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school *and any pupils who attend an eligible school in the school district and receive a scholarship pursuant to sections 2 to 20, inclusive, of this act* on the last day of the first school month of the school district for the school year.~~

~~(3) The count of pupils not included under subparagraph (1) or (2) who are enrolled full-time in a program of distance education provided by that school district or a charter school located within that school district on the last day of the first school month of the school district for the school year.~~

~~(4) The count of pupils who reside in the county and are enrolled:~~

~~(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).~~

~~(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).~~

~~(5) The count of pupils not included under subparagraph (1), (2), (3) or (4), who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive, *and the count of pupils who are receiving special education pursuant to sections 2 to 20, inclusive, of this act* on the last day of the first school month of the school district for the school year, excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.490 on that day.~~

~~(6) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.490 on the last day of the first school month of the school district for the school year.~~

~~(7) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570 on the last day of the first school month of the school district for the school year.~~

~~(8) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 4 of NRS 386.560, subsection 5 of NRS 386.580 or subsection 3 of NRS 392.070, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).~~

~~(b) Multiplying the number of special education program units maintained and operated by the amount per program established for that school year.~~

~~(c) Adding the amounts computed in paragraphs (a) and (b).~~

~~2. If the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is less than the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for either or both of the immediately preceding~~

~~2 school years, the largest number must be used from among the 3 years for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.~~

~~3. Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.~~

~~4. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.~~

~~5. Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section.]~~ *(Deleted by amendment.)*

Sec. 29. ~~[NRS 387.124 is hereby amended to read as follows:~~

~~387.124 Except as otherwise provided in this section and NRS 387.528:~~

~~1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts and charter schools in amounts approximating one fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who~~ [reside]~~:~~

~~*(a) Reside* in the county but attend a charter school~~ [and all the funds attributable to pupils who reside]~~;~~

~~*(b) Reside* in the county and are enrolled full time or part time in a program of distance education provided by another school district or a charter school~~ [.]~~; *and*~~

~~*(c) Reside in the county and are enrolled in a private school that is certified as an eligible school pursuant to sections 2 to 20, inclusive, of this act.~~

~~2. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support. If an agreement is not filed for a pupil who is enrolled in a program of distance education as required by NRS 388.854, the Superintendent of Public Instruction shall not apportion money for that pupil to the board of trustees of the school district in which the pupil resides, or the board of trustees or governing body that provides the program of distance education.~~

~~[2.] 3. Except as otherwise provided in subsection [3,] 4, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the~~

~~pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.~~

~~[3.] *4.* The apportionment to a charter school that is sponsored by the State Board, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part time in a program of distance education provided by a school district or another charter school.~~

~~[4.] *5. The apportionment to a private school that is certified as an eligible school pursuant to sections 2 to 20, inclusive, of this act, computed on a yearly basis, is equal to the:*~~

~~*(a) Sum of the basic support per pupil in the county in which the pupil attends school plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil attends school; and*~~

~~*(b) Proportionate cost of providing a special education to a child, if applicable, as determined in accordance with the regulations adopted pursuant to section 9 of this act.*~~

~~*6.* In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part time in the program if an agreement is filed for that pupil pursuant to NRS 388.854 or 388.858, as applicable. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.~~

~~[5.] *7.* The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.~~

~~[6.] *8.* The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State~~

~~Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.~~

~~[7.] 9. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, he may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.]~~ *(Deleted by amendment.)*

Sec. 30. ~~[NRS 387.185 is hereby amended to read as follows:~~

~~387.185 1. Except as otherwise provided in subsection 2 and NRS 387.528, all~~ [school] ~~money *for the system of public education* due each county school district must be paid over by the State Treasurer to the county treasurer on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the county treasurer may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124.~~

~~2. Except as otherwise provided in NRS 387.528, if the board of trustees of a school district establishes and administers a separate account pursuant to the provisions of NRS 354.603, all~~ [school] ~~money *for the system of public education* due that school district must be paid over by the State Treasurer to the school district on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the school district may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124.~~

~~3. No county school district may receive any portion of the *money for the system of* public~~ [school money] ~~*education* unless that school district has complied with the provisions of this title and regulations adopted pursuant thereto.~~

~~4. Except as otherwise provided in this subsection, all~~ [school] ~~money *for the system of public education* due each charter school must be paid over by the State Treasurer to the governing body of the charter school on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the governing body may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124. If the Superintendent of Public Instruction has approved, pursuant to subsection~~ [5] ~~7 of NRS 387.124, a request for payment of an apportionment 30 days before the apportionment is otherwise required to be made, the money due~~ [to] ~~the charter school must be paid by the State Treasurer to the governing body of the charter school on~~

~~July 1, October 1, January 1 or April 1, as applicable.]~~ *(Deleted by amendment.)*

Sec. 31. ~~[NRS 387.195 is hereby amended to read as follows:~~

~~387.195 1. Each board of county commissioners shall levy a tax of 75 cents on each $100 of assessed valuation of taxable property within the county for the support of the *system of* public [schools] *education* within the county school district.~~

~~2. The tax collected pursuant to subsection 1 on any assessed valuation attributable to the net proceeds of minerals must not be considered as available to pay liabilities of the fiscal year in which the tax is collected but must be deferred for use in the subsequent fiscal year. The annual budget for the school district must only consider as an available source the tax on the net proceeds of minerals which was collected in the prior year.~~

~~3. In addition to any tax levied in accordance with subsection 1, each board of county commissioners shall levy a tax for the payment of interest and redemption of outstanding bonds of the county school district.~~

~~4. The tax collected pursuant to subsection 1 and any interest earned from the investment of the proceeds of that tax must be credited to the county's school district fund.~~

~~5. The tax collected pursuant to subsection 3 and any interest earned from the investment of the proceeds of that tax must be credited to the county school district's debt service fund.]~~ *(Deleted by amendment.)*

Sec. 32. ~~[NRS 387.210 is hereby amended to read as follows:~~

~~387.210 Except when the board of trustees of a county school district elects to establish a separate account under the provisions of NRS 354.603, each county treasurer shall:~~

~~1. Receive and hold as a special deposit all *money for the system of* public [school moneys,] *education*, whether received by him from the State Treasurer or raised by the county for the benefit of the *system of* public [schools,] *education*, or from any other source, and keep separate accounts thereof and of their disbursements.~~

~~2. Pay over all *money for the system of* public [school moneys] *education* received by him only on warrants of the county auditor, issued upon orders of the board of trustees of the county school district. All orders issued in accordance with law by the board of trustees shall be valid vouchers in the hands of the county auditors for warrants drawn upon such orders.]~~ *(Deleted by amendment.)*

Sec. 33. ~~[NRS 387.225 is hereby amended to read as follows:~~

~~387.225 [No] A tax collector or county treasurer shall *not* receive any fees or compensation whatever for collecting, receiving, keeping, transporting or disbursing any *money for the system of* public [school moneys.] *education.]*~~ *(Deleted by amendment.)*

Sec. 33.5. *NRS 388.040 is hereby amended to read as follows:*

388.040 1. Except as otherwise provided in subsection 2, the board of trustees of a school district that includes more than one school which offers

instruction in the same grade or grades may zone the school district and determine which pupils must attend each school.

2. The establishment of zones pursuant to subsection 1 does not preclude a pupil from attending a:

(a) Charter school;

(b) University school for profoundly gifted pupils; ~~[or]~~

(c) *Public school outside the zone of attendance that the pupil is otherwise required to attend if the pupil is enrolled in the Program of School Choice for Children in Foster Care established pursuant to section 9 of this act; or*

(d) Public school outside the zone of attendance that the pupil is otherwise required to attend if the pupil has been issued a fictitious address pursuant to NRS 217.462 to 217.471, inclusive, or the parent or legal guardian with whom the pupil resides has been issued a fictitious address pursuant to NRS 217.462 to 217.471, inclusive.

Sec. 34. ~~[NRS 388.150 is hereby amended to read as follows:~~

~~388.150 1. No books, tracts or papers of a sectarian or denominational character may be used or introduced in any public school established pursuant to the provisions of this title of NRS, nor may any sectarian or denominational doctrines be taught in any public school.~~

~~2. Any school district or charter school whose officers knowingly allow any public schools to be taught in violation of this section forfeits all right to any *money for the system of* public~~ [school funds.~~

~~3. Nothing in this section prohibits]~~ ~~*education.*~~

~~*3. This section does not prohibit* a school district or charter school from complying with applicable federal laws, such as the Equal Access Act, 20 U.S.C. §§ 4071 et seq.]~~ *(Deleted by amendment.)*

Sec. 34.5. *NRS 392.010 is hereby amended to read as follows:*

392.010 Except as to the attendance of a pupil pursuant to NRS 388.820 to 388.874, inclusive, or 392.015, *or section 14 of this act,* or a pupil who is ineligible for attendance pursuant to NRS 392.4675 and except as otherwise provided in NRS 392.264 and 392.268:

1. The board of trustees of any school district may, with the approval of the Superintendent of Public Instruction:

(a) Admit to the school or schools of the school district any pupil or pupils living in an adjoining school district within this State or in an adjoining state when the school district of residence in the adjoining state adjoins the receiving Nevada school district; or

(b) Pay tuition for pupils residing in the school district but who attend school in an adjoining school district within this State or in an adjoining state when the receiving district in the adjoining state adjoins the school district of Nevada residence.

2. With the approval of the Superintendent of Public Instruction, the board of trustees of the school district in which the pupil or pupils reside and the board of trustees of the school district in which the pupil or pupils attend school shall enter into an agreement providing for the payment of such

tuition as may be agreed upon, but transportation costs must be paid by the board of trustees of the school district in which the pupil or pupils reside:

(a) If any are incurred in transporting a pupil or pupils to an adjoining school district within the State; and

(b) If any are incurred in transporting a pupil or pupils to an adjoining state, as provided by the agreement.

3. In addition to the provisions for the payment of tuition and transportation costs for pupils admitted to an adjoining school district as provided in subsection 2, the agreement may contain provisions for the payment of reasonable amounts of money to defray the cost of operation, maintenance and depreciation of capital improvements which can be allocated to such pupils.

Sec. 35. ~~[NRS 392.070 is hereby amended to read as follows:~~

~~392.070 1. Attendance required by the provisions of NRS 392.040 must be excused when satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board [.]~~ ***, including, without limitation, evidence that the child participates in the Scholarship Program for Children in Foster Care pursuant to sections 2 to 20, inclusive, of this act and is enrolled in a private school that is an eligible school.***

~~2. The board of trustees of each school district shall provide programs of special education and related services for homeschooled children. The programs of special education and related services required by this section must be made available:~~

~~(a) Only if a child would otherwise be eligible for participation in programs of special education and related services pursuant to NRS 388.440 to 388.520, inclusive;~~

~~(b) In the same manner that the board of trustees provides, as required by 20 U.S.C. § 1412, for the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians; and~~

~~(c) In accordance with the same requirements set forth in 20 U.S.C. § 1412 which relate to the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians.~~

~~3. Except as otherwise provided in subsection 2 for programs of special education and related services, upon the request of a parent or legal guardian of a child who is enrolled in a private school or a parent or legal guardian of a homeschooled child, the board of trustees of the school district in which the child resides shall authorize the child to participate in a class that is not available to the child at the private school or home school or to participate in an extracurricular activity, excluding sports, at a public school within the school district if:~~

~~(a) Space for the child in the class or extracurricular activity is available; and~~

~~(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the child is qualified to participate in the class or extracurricular activity.~~

~~➤ If the board of trustees of a school district authorizes a child to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the child to attend the class or activity. A homeschooled child must be allowed to participate in interscholastic activities and events governed by an association pursuant to NRS 386.420 to 386.470, inclusive, and interscholastic activities and events, including sports, pursuant to subsection 5.~~

~~4. The board of trustees of a school district may revoke its approval for a pupil to participate in a class or extracurricular activity at a public school pursuant to subsection 3 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees. If the board of trustees revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.~~

~~5. In addition to those interscholastic activities and events governed by an association pursuant to NRS 386.420 to 386.470, inclusive, homeschooled children must be allowed to participate in interscholastic activities and events, including sports. A homeschooled child who participates in interscholastic activities and events at a public school pursuant to this subsection must participate within the school district of the child's residence through the public school which the child is otherwise zoned to attend. Any rules or regulations that apply to pupils enrolled in public schools who participate in interscholastic activities and events, including sports, apply in the same manner to homeschooled children who participate in interscholastic activities and events, including, without limitation, provisions governing:~~

~~(a) Eligibility and qualifications for participation;~~

~~(b) Fees for participation;~~

~~(c) Insurance;~~

~~(d) Transportation;~~

~~(e) Requirements of physical examination;~~

~~(f) Responsibilities of participants;~~

~~(g) Schedules of events;~~

~~(h) Safety and welfare of participants;~~

~~(i) Eligibility for awards, trophies and medals;~~

~~(j) Conduct of behavior and performance of participants; and~~

~~(k) Disciplinary procedures.~~

~~6. If a homeschooled child participates in interscholastic activities and events pursuant to subsection 5:~~

~~(a) No challenge may be brought by an association, a school district, a public school or a private school, a parent or guardian of a pupil enrolled in a public school or a private school, a pupil enrolled in a public school or a private school, or any other entity or person claiming that an interscholastic activity or event is invalid because the homeschooled child is allowed to participate.~~

~~(b) Neither the school district nor a public school may prescribe any regulations, rules, policies, procedures or requirements governing the eligibility or participation of the homeschooled child that are more restrictive than the provisions governing the eligibility and participation of pupils enrolled in public schools.~~

~~7. The programs of special education and related services required by subsection 2 may be offered at a public school or another location that is appropriate.~~

~~8. The Department may adopt such regulations as are necessary for the boards of trustees of school districts to provide the programs of special education and related services required by subsection 2.~~

~~9. As used in this section, "related services" has the meaning ascribed to it in 20 U.S.C. § [1401(22).] *1401(26).]* *(Deleted by amendment.)*~~

Sec. 36. ~~[NRS 394.130 is hereby amended to read as follows:~~

~~394.130 1. In order to secure uniform and standard work for pupils in private schools in this State, instruction in the subjects required by law for pupils in the public schools shall be required of pupils receiving instruction in such private schools, either under the regular state courses of study prescribed by the State Board [of Education] or under courses of study prepared by such private schools and approved by the State Board . [of Education.]~~

~~2. Such private schools [shall be] *are* required to furnish from time to time such reports as the Superintendent of Public Instruction may find necessary as to enrollment, attendance and general progress within such schools.~~

~~3. [Nothing in this section shall be so construed as:] *This section is not intended:*~~

~~(a) To interfere with the right of the proper authorities having charge of private schools to give religious instruction to the pupils enrolled therein.~~

~~(b) [To] *Except as otherwise provided in section 18 of this act, to* give such private schools any right to share in the *money for the system of* public [school funds] *education* apportioned for the support of the *system of* public [schools] *education* of this State.] *(Deleted by amendment.)*~~

Sec. 37. ~~[NRS 41.0305 is hereby amended to read as follows:~~

~~41.0305 As used in NRS 41.0305 to 41.039, inclusive, the term "political subdivision" includes an organization that was officially designated as a community action agency pursuant to 42 U.S.C. § 2790 before that section was repealed and is included in the definition of an "eligible entity" pursuant to 42 U.S.C. § 9902, the Nevada Rural Housing Authority, an airport~~

~~authority created by special act of the Legislature, a regional transportation commission and a fire protection district, irrigation district, school district, governing body of a charter school, any other special district that performs a governmental function, even though it does not exercise general governmental powers, and the governing body of a university school for profoundly gifted pupils. *The term does not include a private school that is certified as an eligible school pursuant to sections 2 to 20, inclusive, of this act.*]~~ *(Deleted by amendment.)*

Sec. 38. ~~[NRS 241.015 is hereby amended to read as follows:~~

~~241.015 As used in this chapter, unless the context otherwise requires:~~

~~1. "Action" means:~~

~~(a) A decision made by a majority of the members present during a meeting of a public body;~~

~~(b) A commitment or promise made by a majority of the members present during a meeting of a public body;~~

~~(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or~~

~~(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.~~

~~2. "Meeting":~~

~~(a) Except as otherwise provided in paragraph (b), means:~~

~~(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.~~

~~(2) Any series of gatherings of members of a public body at which:~~

~~(I) Less than a quorum is present at any individual gathering;~~

~~(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and~~

~~(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.~~

~~(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:~~

~~(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.~~

~~(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.~~

~~3. Except as otherwise provided in this subsection, "public body" means any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in~~

~~part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405. "Public body" does not include [the].~~

~~*(a) The* Legislature of the State of Nevada.~~

~~*(b) A private school that is certified as an eligible school pursuant to sections 2 to 20, inclusive, of this act.*~~

~~4. "Quorum" means a simple majority of the constituent membership of a public body or another proportion established by law.]~~ *(Deleted by amendment.)*

Sec. 39. ~~[NRS 278*C*.250 is hereby amended to read as follows:~~

~~278*C*.250 1. After the effective date of the ordinance adopted pursuant to NRS 278*C*.220, any taxes levied upon taxable property in the tax increment area each year by or for the benefit of the State, the municipality and any public body must be divided as follows:~~

~~(a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the tax increment area as shown upon the last equalized assessment roll used in connection with the taxation of the property by the taxing agency, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid.~~

~~(b) Except as otherwise provided in this section, the portion of the taxes levied each year in excess of the amount determined pursuant to paragraph (a) must be allocated to, and when collected must be paid into, the tax increment account pertaining to the undertaking to pay the bond requirements of loans, money advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, incurred by the municipality to finance or refinance, in whole or in part, the undertaking. Unless the total assessed valuation of the taxable property in the tax increment area exceeds the total assessed value of the taxable property in the area as shown by the last equalized assessment roll referred to in this subsection, all of the taxes levied and collected upon the taxable property in the area must be paid into the funds of the respective taxing agencies. When the loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the tax increment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.~~

~~(c) The amount of the taxes levied each year which are paid into the tax increment account pursuant to paragraph (b) must be limited by the governing body to an amount not to exceed the combined total amount~~

~~required for annual debt service of the project or projects acquired, improved or equipped, or any combination thereof, as part of the undertaking.~~

~~(d) Any revenues generated within the tax increment district in excess of the amount referenced in paragraph (c), if any, will be paid into the funds of the respective taxing agencies in the same proportion as their base amount was distributed.~~

~~2. In any fiscal year, the total revenue paid to a tax increment area in combination with the total revenue paid to any other tax increment areas and any redevelopment agencies of a municipality must not exceed:~~

~~(a) In a municipality whose population is 100,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.~~

~~(b) In a municipality whose population is less than 100,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.~~

~~➥ If the revenue paid to a tax increment area must be limited pursuant to paragraph (a) or (b) and the municipality has more than one redevelopment agency or tax increment area, or one of each, the municipality shall determine the allocation to each agency and area. Any revenue that would be allocated to a tax increment area but for the provisions of this section must be paid into the funds of the respective taxing agencies.~~

~~3. The portion of the taxes levied each year in excess of the amount determined pursuant to paragraph (a) of subsection 1 which is attributable to any tax rate levied by a taxing agency:~~

~~(a) To produce revenue in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the debt service fund of that taxing agency.~~

~~(b) In excess of any tax rate of that taxing agency applicable to the last taxation of the property before the effective date of the ordinance, if that additional rate was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.~~

~~(c) Pursuant to NRS 387.3285 or 387.3287, if that rate was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.~~

~~(d) For the support of the *system of* public [schools] *education* within a county school district pursuant to NRS 387.195, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.~~

~~4. The provisions of paragraph (a) of subsection 3 include, without limitation, a tax rate approved for bonds of a county school district issued pursuant to NRS 350.020, including, without limitation, amounts necessary for a reserve account in the debt service fund.~~

~~5. As used in this section, the term "last equalized assessment roll" means the assessment roll in existence on the 15th day of March immediately preceding the effective date of the ordinance.]~~ *(Deleted by amendment.)*

Sec. 40. ~~[NRS 286.070 is hereby amended to read as follows:~~

~~286.070 1. "Public employer" means the State, one of its agencies or one of its political subdivisions, the System, irrigation districts created under the laws of the State of Nevada, a public or quasi-public organization or agency that is funded, at least in part, by public money, including a regional transportation commission, a governing body of a charter school and a council of governments created pursuant to the laws of the State of Nevada.~~

~~2. State agencies are those agencies subject to state control and supervision, including those whose employees are governed by chapter 284 of NRS, unless specifically exempted therefrom, and those which deposit money with the State Treasurer. *The term does not include a private school that is certified as an eligible school pursuant to sections 2 to 20, inclusive, of this act.*]~~ *(Deleted by amendment.)*

Sec. 41. On or before January 1, 2008, the State Board of Education shall adopt the regulations required by section 9 of this act. The State Board shall ensure that the regulations carry out the ~~[Scholarship]~~ Program *of School Choice* for Children in Foster Care in accordance with sections 2 to 20, inclusive, of this act beginning with the 2008-2009 school year.

Sec. 42. ~~[A public school or private school certified as an eligible school by the Department of Education pursuant to section 11 of this act may commence operation under the Scholarship Program for Children in Foster Care beginning with the 2008-2009 school year.]~~ *(Deleted by amendment.)*

Sec. 43. 1. This section and sections 1, 9 ~~[,]~~ *and* 41 ~~[and 42]~~ of this act become effective on July 1, 2007.

2. Sections 2 to 8, inclusive, ~~[and]~~ 10 to 40, inclusive, *and 42* of this act become effective on July 1, 2008.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 404.

Bill read second time.

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

Amendment No. 345.

"SUMMARY—Revises provisions governing homeschooled children. (BDR 34-738)"

"AN ACT relating to education; revising provisions governing homeschooled children; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, compulsory attendance in public school is required of children between the ages of 7 and 17 years. (NRS 392.040) Compulsory attendance is excused if satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board of Education. (NRS 392.070) Section 3 of this bill excuses compulsory attendance if a child is enrolled in a private school or if a notice of intent to homeschool the child is filed with the ~~[Superintendent of Public Instruction.]~~ *superintendent of schools of the school district in which the child resides.* Section 2 of this bill sets forth requirements concerning a notice of intent to homeschool and establishes certain rights for a child that is being homeschooled and the parents of that child.

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

Section 1. NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil may enroll in a program of distance education only if the pupil satisfies the requirements of any other applicable statute and the pupil:

(a) Is participating in a program for pupils at risk of dropping out of high school pursuant to NRS 388.537;

(b) Is participating in a program of independent study pursuant to NRS 389.155;

(c) Is enrolled in a public school that does not offer certain advanced or specialized courses that the pupil desires to attend;

(d) Has a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050;

(e) Would otherwise be excused from compulsory attendance pursuant to NRS 392.080;

(f) Is otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675;

(g) Is otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that the circumstances warrant enrollment for the pupil; or

(h) Is otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that the circumstances warrant enrollment for the pupil.

2. In addition to the eligibility for enrollment set forth in subsection 1, a pupil must satisfy the qualifications and conditions for enrollment in a program of distance education adopted by the State Board pursuant to NRS 388.874.

3. A child who is exempt from compulsory attendance and ~~[receiving equivalent instruction authorized by the State Board pursuant to subsection 1~~

~~of NRS 392.070]~~ *is enrolled in a private school pursuant to chapter 394 of NRS or is being homeschooled* is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether he is otherwise eligible for enrollment pursuant to subsection 1.

4. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to 62F.140, inclusive, and 392.251 to 392.271, inclusive.

5. If a pupil is eligible for enrollment in a program of distance education pursuant to paragraph (c) of subsection 1, he may enroll in the program of distance education only to take those advanced or specialized courses that are not offered at the public school he otherwise attends.

Sec. 2. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the ~~[Superintendent of Public Instruction]~~ superintendent of schools of the school district in which the child resides a written or electronic notice of intent to homeschool the child. ~~[not later than 30 days after]~~ The notice of intent to homeschool must be filed before beginning to homeschool the child ~~[.]~~ or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

2. The ~~[Department shall develop a standard form for the notice of intent to homeschool. The form]~~ purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance. A notice of intent to homeschool that is filed with a school district remains valid in that school district without renewal until:

(a) The child is no longer subject to compulsory attendance;

(b) The parent ceases to homeschool the child; or

(c) The child enrolls in a public or private school in this State.

3. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

4. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) If applicable, the name of the public school in this State which the child most recently attended; and

~~[(d)]~~ (e) An optional statement that the parent may sign which provides: I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

~~[3. The Superintendent of Public Instruction shall, upon written request, provide a copy of a signed notice of intent to homeschool concerning a specific child:~~

~~(a) To the board of trustees of a school district or a law enforcement agency for purposes relating to the investigation of suspected truancy. Before any information is provided pursuant to this paragraph, the board of trustees or law enforcement agency must certify in writing to the Superintendent of Public Instruction that the information will not be disclosed to any other party without the prior written consent of the parent of the child, except as otherwise provided by specific statute.~~

~~(b) To the board of trustees of a school district for purposes of confirming the residency of a child for participation in classes, activities or services in a public school.~~

~~(c) To anyone specified by:~~

~~(1) The parent; or~~

~~(2) The child, if the child is at least 18 years of age.~~

~~4.~~ 5. Each superintendent of schools of a school district shall accept any notice of intent to homeschool that is filed with him pursuant to this section and meets the requirements of subsection 4, and shall not require or request any additional information or assurances from the parent who filed the notice.

6. The superintendent of schools of a school district with whom a notice of intent to homeschool is filed shall:

(a) Upon receipt, indicate on the notice the date of receipt; and

(b) Retain a copy of the notice for not less than 15 years. The copy of the notice may be retained in an electronic format.

7. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if he is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

8. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child.

~~[5.]~~ 9. *A school or organization shall not discriminate in any manner against a child who is or was homeschooled.*

~~[6.]~~ 10. *Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test. Each school district shall maintain on its Internet website a tab for homeschooling, and shall post in a timely manner all pertinent information concerning such examinations* ~~[for]~~ *available to homeschooled children within the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations.*

~~[7.]~~ 11. *The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.*

12. *No regulation or policy of the State Board or any school district may infringe upon the right of a parent to educate his child based on religious preference unless it is:*

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means of furthering that compelling governmental interest.

~~[8.]~~ 13. *As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.*

Sec. 3. NRS 392.070 is hereby amended to read as follows:

392.070 1. Attendance *of a child* required by the provisions of NRS 392.040 must be excused when ~~[satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board.]~~ *:*

(a) The child is enrolled in a private school pursuant to chapter 394 of NRS; or

(b) A parent of the child chooses to provide education to the child and files a notice of intent to homeschool the child ~~[is filed]~~ *with the* ~~[Superintendent of Public Instruction]~~ *superintendent of schools of the school district in which the child resides in accordance with section 2 of this act.*

2. The board of trustees of each school district shall provide programs of special education and related services for homeschooled children. The programs of special education and related services required by this section must be made available:

(a) Only if a child would otherwise be eligible for participation in programs of special education and related services pursuant to NRS 388.440 to 388.520, inclusive;

(b) In the same manner that the board of trustees provides, as required by 20 U.S.C. § 1412, for the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians; and

(c) In accordance with the same requirements set forth in 20 U.S.C. § 1412 which relate to the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians.

3. Except as otherwise provided in subsection 2 for programs of special education and related services, upon the request of a parent or legal guardian of a child who is enrolled in a private school or a parent or legal guardian of a homeschooled child, the board of trustees of the school district in which the child resides shall authorize the child to participate in ~~[a class that is not available to the child at the private school or home school or to participate in an extracurricular activity,]~~ *any classes* ~~*[or]*~~ *and extracurricular activities,* excluding sports, at a public school within the school district if:

(a) Space for the child in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the child is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a child to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the child to attend the class or activity. A homeschooled child must be allowed to participate in interscholastic activities and events governed by ~~[an association]~~ *the Nevada Interscholastic Activities Association* pursuant to NRS 386.420 to 386.470, inclusive, and interscholastic activities and events, including sports, pursuant to subsection 5.

4. The board of trustees of a school district may revoke its approval for a pupil to participate in a class or extracurricular activity at a public school pursuant to subsection 3 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees. If the board of trustees revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

5. In addition to those interscholastic activities and events governed by ~~[an association]~~ *the Nevada Interscholastic Activities Association* pursuant to

NRS 386.420 to 386.470, inclusive, homeschooled children must be allowed to participate in interscholastic activities and events, including sports. A homeschooled child who participates in interscholastic activities and events at a public school pursuant to this subsection must participate within the school district of the child's residence through the public school which the child is otherwise zoned to attend. Any rules or regulations that apply to pupils enrolled in public schools who participate in interscholastic activities and events, including sports, apply in the same manner to homeschooled children who participate in interscholastic activities and events, including, without limitation, provisions governing:

(a) Eligibility and qualifications for participation;

(b) Fees for participation;

(c) Insurance;

(d) Transportation;

(e) Requirements of physical examination;

(f) Responsibilities of participants;

(g) Schedules of events;

(h) Safety and welfare of participants;

(i) Eligibility for awards, trophies and medals;

(j) Conduct of behavior and performance of participants; and

(k) Disciplinary procedures.

6. If a homeschooled child participates in interscholastic activities and events pursuant to subsection 5:

(a) No challenge may be brought by ~~[an association,]~~ *the Association*, a school district, a public school or a private school, a parent or guardian of a pupil enrolled in a public school or a private school, a pupil enrolled in a public school or a private school, or any other entity or person claiming that an interscholastic activity or event is invalid because the homeschooled child is allowed to participate.

(b) Neither the school district nor a public school may prescribe any regulations, rules, policies, procedures or requirements governing the eligibility or participation of the homeschooled child that are more restrictive than the provisions governing the eligibility and participation of pupils enrolled in public schools.

7. The programs of special education and related services required by subsection 2 may be offered at a public school or another location that is appropriate.

8. The Department ~~[may]~~ *shall* adopt such regulations as are necessary for the boards of trustees of school districts to provide the programs of special education and related services required by subsection 2.

9. As used in this section, "related services" has the meaning ascribed to it in 20 U.S.C. § ~~[1401(22).]~~ *1401*.

Sec. 4. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the

school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ *Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;* or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ *Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;* or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

➥ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of his suspension or expulsion, the pupil must:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ *Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;* or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he

qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 5. The regulations adopted by the State Board of Education which are codified as NAC 392.011 to 392.065, inclusive, are hereby declared void. In preparing the supplements to the Nevada Administrative Code on or after July 1, 2007, the Legislative Counsel shall remove those regulations.

Sec. 6. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 533.

Bill read second time.

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

Amendment No. 324.

"SUMMARY—Makes various changes relating to county hospitals. (BDR ~~[40]~~ *S*-1388)"

"AN ACT relating to county hospitals; ~~[revising the manner of creation of the board of hospital trustees in certain larger counties; revising the powers and duties of the board of hospital trustees in such counties; requiring certain reviews of the county hospital in such counties;]~~ requiring the Legislative Auditor to conduct a performance audit of the University Medical Center of Southern Nevada; *requiring the board of hospital trustees in certain larger counties to report certain information concerning the county hospital;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the administration of county hospitals by boards of hospital trustees. (Chapter 450 of NRS) ~~[Section 1 of this bill revises the manner of creation of the board of hospital trustees in counties whose population is 400,000 or more (currently Clark County). Section 8 of this bill requires the board of hospital trustees in such a county to contract with a management company to operate the hospital. The board is required to contract with a management company until at least July 1, 2012. Section 9 of this bill requires the board of hospital trustees in such a county to conduct certain reviews in the next 2 years.]~~ Section 10 of this bill requires the Legislative Auditor to conduct a performance audit of the University Medical Center of Southern Nevada. *Section 10.5 of this bill requires the board of hospital trustees in a county whose population is 400,000 or more (currently Clark County) to submit a quarterly report concerning the status of the county hospital.*

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

Section 1. ~~[Chapter 450 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. There is hereby created in each county whose population is 400,000 or more a blue ribbon committee on county hospitals consisting of 35 members appointed by the board of county commissioners of that county, not more than two of whom may be members of the board of county commissioners. The board of county commissioners shall appoint members to the Committee who have knowledge and expertise concerning management of public and nonprofit hospitals.*~~

~~*2. The duties of the blue ribbon committee on county hospitals must include, without limitation:*~~

~~*(a) Considering the structure and framework of governing bodies of other public and nonprofit hospitals;*~~

~~*(b) Developing the criteria for the composition of a qualified and diverse governing body for the county hospital; and*~~

~~*(c) Creating, from its membership, a nominating committee consisting of nine members, none of whom may be members of the board of county commissioners of the county in which the committee is created.*~~

~~*3. The nominating committee created pursuant to subsection 2 shall appoint 11 residents of the county to serve as the board of hospital trustees for the county. The appointments must be made based upon criteria established by the blue ribbon committee on county hospitals. The term of office of each member of the board is 2 years.*~~

~~*4. In addition to any other duties conferred pursuant to NRS 450.010 to 450.510, inclusive, a board of hospital trustees appointed pursuant to this section shall consider the feasibility of conveying or leasing the public hospital to a nonprofit corporation.]*~~ *(Deleted by amendment.)*

Sec. 2. ~~[NRS 450.010 is hereby amended to read as follows:~~

~~450.010 For the purposes of NRS 450.010 to 450.510, inclusive,~~ *and section 1 of this act*~~, "taxpayers" include only citizens of the United States of the age of 18 years and upward who, at the time of filing their petition, are registered electors of the county in which an election is proposed to be held and whose names appear on the latest assessment roll of the county as owners of real or personal property.]~~ *(Deleted by amendment.)*

Sec. 3. ~~[NRS 450.070 is hereby amended to read as follows:~~

~~450.070 1. Except~~ *as otherwise provided in section 1 of this act and* ~~in counties where the board of county commissioners is the board of hospital trustees, the board of hospital trustees for the public hospital consists of five trustees, who must:~~

~~(a) Be residents of the county or counties concerned.~~

~~(b) Be elected as provided in subsection 2.~~

~~2. In any county:~~

~~(a) Whose population is less than 100,000, hospital trustees must be elected for terms of 4 years in the same manner as other county officers are elected.~~

~~(b) Whose population is 100,000 or more but less than 400,000, hospital trustees must be elected from the county at large for terms of 4 years.]~~ *(Deleted by amendment.)*

Sec. 4. ~~[NRS 450.080 is hereby amended to read as follows:~~

~~450.080 Except as otherwise provided in section 1 of this act and~~ in ~~counties where the board of county commissioners is the board of hospital trustees:~~

~~1. The offices of hospital trustees are hereby declared to be nonpartisan, and the names of candidates for such offices shall appear alike upon the ballots of all parties at all primary elections.~~

~~2. At the general election only the names of those candidates, not to exceed twice the number of hospital trustees to be elected, who received the highest numbers of votes at the primary election shall appear on the ballot.]~~ *(Deleted by amendment.)*

Sec. 5. ~~[NRS 450.090 is hereby amended to read as follows:~~

~~450.090 1. In any county whose population is 400,000 or more, the board of~~ [county commissioners is, ex officio, the board of hospital trustees, and the county commissioners shall serve as hospital trustees during their terms of office as county commissioners.] ~~hospital trustees must be appointed in the manner provided in section 1 of this act.~~

~~2. In any county whose population is less than 400,000, the board of county commissioners may enact an ordinance providing that the board of county commissioners is, ex officio, the board of hospital trustees. If such an ordinance is enacted in a county:~~

~~(a) The county commissioners shall serve as hospital trustees during their terms of office as county commissioners; and~~

~~(b) If hospital trustees have been elected pursuant to NRS 450.070 and 450.080, the term of office of each hospital trustee who is serving in that capacity on the effective date of the ordinance is terminated as of the effective date of the ordinance.~~

~~3. A board of county commissioners shall not enact an ordinance pursuant to subsection 2 unless it determines that:~~

~~(a) The county has fully funded its indigent care account created pursuant to NRS 428.010;~~

~~(b) The county has fulfilled its duty to reimburse the hospital for indigent care provided to qualified indigent patients; and~~

~~(c) During the previous calendar year:~~

~~(1) At least one of the hospital's accounts payable was more than 90 days in arrears;~~

~~(2) The hospital failed to fulfill its statutory financial obligations, such as the payment of taxes, premiums for industrial insurance or contributions to the Public Employees' Retirement System;~~

~~(3) One or more of the conditions relating to financial emergencies set forth in subsection 1 of NRS 354.685 existed at the hospital; or~~

~~(4) The hospital received notice from the Federal Government or the State of Nevada that the certification or licensure of the hospital was in imminent jeopardy of being revoked because the hospital had not carried out a previously established plan of action to correct previously noted deficiencies found by the regulatory body.~~

~~4. Except in counties where the board of county commissioners is the board of hospital trustees, in any county whose population is 100,000 or more but less than 400,000, the board of hospital trustees for the public hospital must be composed of the five regularly elected or appointed members, and, in addition, three county commissioners selected by the chairman of the board of county commissioners shall serve as voting members of the board of hospital trustees during their terms of office as county commissioners.~~

~~5. Except in counties where the board of county commissioners is the board of hospital trustees, in any county whose population is less than 100,000, the board of hospital trustees for the public hospital must be composed of the five regularly elected or appointed members, and, in addition, the board of county commissioners may, by resolution, provide that:~~

~~(a) One county commissioner selected by the chairman of the board of county commissioners shall serve as a voting member of the board of hospital trustees during his term of office as county commissioner;~~

~~(b) A physician who is the chief of the staff of physicians for the public hospital shall serve as a voting member of the board of hospital trustees; or~~

~~(c) Both a county commissioner appointed pursuant to the provisions of paragraph (a) and a physician appointed pursuant to the provisions of paragraph (b) shall serve as voting members of the board of hospital trustees.~~

~~→ The term of office of a member appointed pursuant to the provisions of paragraph (b) is 2 years and begins on the date the board of county commissioners appoints the member.]~~ *(Deleted by amendment.)*

Sec. 6. ~~[NRS 450.110 is hereby amended to read as follows:~~

~~450.110 Except in counties where the board of county commissioners is the board of hospital trustees, a vacancy in the board of hospital trustees occasioned by a resignation, removal or otherwise must be reported to the board or boards of county commissioners and must be filled in the same manner as the original appointment. An appointee shall hold office:~~

~~1. Until the next following general election in the usual manner;~~ [or]

~~2. If the appointee is a physician appointed to fill the vacancy of a member appointed pursuant to the provisions of paragraph (b) of subsection 5 of NRS 450.090, for the unexpired term of that member~~ [.] ~~; or~~

~~*3. If the appointee is a member of a board of hospital trustees that is appointed pursuant to section 1 of this act, for the unexpired term of that member.]*~~ *(Deleted by amendment.)*

Sec. 7. ~~[NRS 450.140 is hereby amended to read as follows:~~

~~450.140 1. The board of hospital trustees shall hold meetings at least once each month, and shall keep a complete record of all its transactions.~~

~~2. Except as otherwise provided in NRS 241.0355:~~

~~(a) [In] *And except as otherwise provided in paragraph (d), in* counties where three county commissioners are not members of the board, three members of the board constitute a quorum for the transaction of business.~~

~~(b) And except as otherwise provided in paragraph (c), in counties where three county commissioners are members of the board, any five of the members constitute a quorum for the transaction of business.~~

~~(c) In counties where the board of county commissioners is the board of hospital trustees, a majority of the board constitutes a quorum for the transaction of business.~~

~~*(d) In counties where the board of hospital trustees is appointed pursuant to section 1 of this act, six members of the board constitute a quorum for the transaction of business.]*~~ *(Deleted by amendment.)*

Sec. 8. ~~[NRS 450.191 is hereby amended to read as follows:~~

~~450.191 1.~~ [The] ~~*Except as otherwise provided in subsection 2, the* governing body of a county hospital may contract with a company which manages hospitals for the rendering of management services in a county hospital under the ultimate authority of the governing body.~~

~~2.~~ [The] ~~*In a county where the board of hospital trustees is appointed pursuant to section 1 of this act, the board shall contract with a company which manages hospitals to render management services at the county hospital under the authority of the board. The board shall secure the services of a qualified contractor through a public bidding process to assist in developing the request for proposals to be used to select the management company.*~~

~~*3. An* agreement *entered into pursuant to this section* may provide:~~

~~(a) That the administrator of the hospital must be an employee of the company which manages the hospital; and~~

~~(b) That the hospital may, in accordance with the requirements of NRS 450.530, purchase supplies, materials and equipment through the purchasing contracts of the company which manages the hospital, or through a purchasing group, without complying with the requirements for competitive bidding set forth in chapter 332 of NRS.]~~ *(Deleted by amendment.)*

Sec. 9. ~~[1. The board of hospital trustees in a county whose population is 400,000 or more shall continue to serve until a new board is appointed pursuant to section 1 of this act. The new board of hospital trustees must be appointed as soon as is practicable after the effective date of this act.~~

~~2. A board of hospital trustees appointed pursuant to section 1 of this act shall:~~

~~(a) Enter into a contract with a qualified, independent consultant, who is recognized for his expertise with issues concerning benefits and unions, to~~

~~conduct an examination of the salary and benefit structure of the employees of the county hospital and any contracts between unions and the hospital.~~

~~(b) Review the mix of payers to the hospital, including a review of how federal, state and county payment structures can be modified to assist in increasing the percentage of paying patients at the county hospital.~~

~~3. The examination and review required pursuant to subsection 2 must be completed on or before July 1, 2009, and used by the board to guide the management of the hospital.]~~ *(Deleted by amendment.)*

Sec. 10. 1. The Legislative Auditor shall conduct a performance audit of the University Medical Center of Southern Nevada. The audit must include, but is not limited to:

(a) Practices concerning the payment of the personnel of the hospital;

(b) Contracts with payers; and

(c) Accounts payable and receivable.

2. The Legislative Auditor shall prepare a written report of the performance audit and present the report to the Audit Subcommittee of the Legislative Commission not later than February 1, 2009.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 10.5. *1. The board of hospital trustees in a county whose population is 400,000 or more shall, each calendar quarter, submit a report to the Legislative Committee on Health Care, the Interim Finance Committee and the Governor.*

2. The report required pursuant to subsection 1 must include, but is not limited to:

(a) A report of the financial status of the county hospital;

(b) Information concerning the management of the county hospital; and

(c) Other information concerning the status of the county hospital.

Sec. 11. ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~ *(Deleted by amendment.)*

Sec. 12. 1. This act becomes effective upon passage and approval.

2. Section ~~[8]~~ *10.5* of this act expires by limitation on ~~[July 1, 2012.]~~ *June 30, 2009.*

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 536.

Bill read second time.

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

Amendment No. 326.

"SUMMARY—Makes various changes governing the privacy of certain health information. (BDR 40-305)"

"AN ACT relating to public health; exempting certain entities that comply with the provisions of federal law governing the electronic transmission of certain health information from provisions of state law that provide more stringent privacy requirements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects the privacy of certain individually identifiable health information. (Public Law No. 104-191) HIPAA and the federal regulations to carry out that Act contain provisions which address the use and disclosure of individually identifiable health information by certain covered entities, including certain health plans, health care providers and health care clearinghouses. Among the federal requirements are provisions governing the electronic transmission of such health information. (42 U.S.C. §§ 1320d et seq.)

HIPAA further provides that if a state law imposes requirements or standards concerning the privacy of health information, the state law preempts HIPAA to the extent that the state law is more stringent than HIPAA. Section 1 of this bill changes the effect of this state law preemption with respect to the electronic transmission of individually identifiable health information by exempting a covered entity that complies with HIPAA from any state law governing the privacy of health information which is more stringent.

~~[Sections 2-32 of this bill create exceptions to existing state laws with provisions governing the privacy of health information for a covered entity that complies with the provisions of HIPAA governing the electronic transmission of individually identifiable health information.]~~

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a covered entity transmits electronically individually identifiable health information in compliance with the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, which govern the electronic transmission of such information, the covered entity is, for purposes of the electronic transmission, exempt from any state law that contains more stringent requirements or provisions concerning the privacy or confidentiality of individually identifiable health information.

2. As used in this section:

(a) "Covered entity" has the meaning ascribed to it in 45 C.F.R. § 160.103.

(b) "Individually identifiable health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.

Sec. 2. ~~[NRS 439.840 is hereby amended to read as follows:~~

~~439.840 1. The Health Division shall, to the extent of legislative appropriation and authorization:~~

~~(a) Collect and maintain reports received pursuant to NRS 439.835; and~~

~~(b) Ensure that such reports, and any additional documents created from such reports, are protected adequately from fire, theft, loss, destruction and other hazards and from unauthorized access.~~

~~2. [Reports] *Except as otherwise provided in section 1 of this act, reports* received pursuant to NRS 439.835 are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.]~~ *(Deleted by amendment.)*

Sec. 3. NRS 441A.220 is hereby amended to read as follows:

441A.220 All information of a personal nature about any person provided by any other person reporting a case or suspected case of a communicable disease, or by any person who has a communicable disease, or as determined by investigation of the health authority, is confidential medical information and must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except *:* ~~[as follows:]~~

1. *As otherwise provided in section 1 of this act.*

2. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.

~~[2.]~~ *3.* In a prosecution for a violation of this chapter.

~~[3.]~~ *4.* In a proceeding for an injunction brought pursuant to this chapter.

~~[4.]~~ *5.* In reporting the actual or suspected abuse or neglect of a child or elderly person.

~~[5.]~~ *6.* To any person who has a medical need to know the information for his own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.

~~[6.]~~ *7.* If the person who is the subject of the information consents in writing to the disclosure.

~~[7.]~~ *8.* Pursuant to subsection 2 of NRS 441A.320 or NRS 629.069.

~~[8.]~~ *9.* If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.

~~[9.]~~ *10.* To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.

~~[10.]~~ *11.* If the disclosure is authorized or required by specific statute.

Sec. 4. NRS 441A.230 is hereby amended to read as follows:

441A.230 Except as otherwise provided in this chapter ~~[,]~~ *and section 1 of this act,* a person shall not make public the name of, or other personal identifying information about, a person infected with a communicable disease who has been investigated by the health authority pursuant to this chapter ~~[,]~~ without the consent of the person.

Sec. 5. ~~[NRS 442.320 is hereby amended to read as follows:~~

~~442.320 1. The Health Division, in cooperation with the University of Nevada School of Medicine, shall establish and maintain a statewide system for the collection and analysis of information concerning birth defects and other adverse birth outcomes.~~

~~2. The State Board of Health shall adopt regulations to carry out the provisions of NRS 442.300 to 442.330, inclusive. The regulations must:~~

~~(a) Establish a procedure to inform a patient that his name will be used for research and referrals to related services unless he requests the exclusion of his name from the system; and~~

~~(b) [Require]~~ *Except as otherwise provided in section 1 of this act, require* ~~the exclusion from the system of the name of a patient if the patient or, if the patient is a minor, a parent or legal guardian of the patient has requested in writing to exclude the name of the patient from the system.~~

~~3. The provisions of NRS 442.300 to 442.330, inclusive, do not authorize any prenatal genetic testing of children.]~~ *(Deleted by amendment.)*

Sec. 6. NRS 442.330 is hereby amended to read as follows:

442.330 1. ~~[Information]~~ *Except as otherwise provided in section 1 of this act, information* obtained by the system from any source may be used only:

(a) To investigate the causes of birth defects and other adverse birth outcomes;

(b) To determine, evaluate and develop strategies to prevent the occurrence of birth defects and other adverse birth outcomes;

(c) To assist in the early detection of birth defects; and

(d) To assist in ensuring the delivery of services for children identified with birth defects.

2. The State Board of Health shall adopt regulations to ensure that ~~[:]~~ *, except as otherwise provided in subsection 3 and section 1 of this act:*

(a) Access to information contained in the system is limited to persons authorized and approved by the State Health Officer or his representative who are employed by the Health Division or the University of Nevada School of Medicine.

(b) Any information obtained by the system that would reveal the identity of a patient remains confidential.

(c) ~~[Except as otherwise provided in subsection 3, information]~~ *Information* obtained by the system is used solely for the purposes set forth in subsection 1.

3. This section does not prohibit the publishing of statistical compilations relating to birth defects and other adverse birth outcomes that do not in any manner identify individual patients or individual sources of information.

Sec. 7. NRS 442.395 is hereby amended to read as follows:

442.395 ~~[If]~~ *Except as otherwise provided in section 1 of this act, if* a pregnant woman is referred to the Health Division by a provider of health care or other services for information relating to programs for the prevention and treatment of fetal alcohol syndrome, any report relating to the referral or other associated documentation is confidential and must not be used in any criminal prosecution of the woman.

Sec. 8. NRS 449.720 is hereby amended to read as follows:

449.720 *1.* Every patient of a medical facility, facility for the dependent or home for individual residential care has the right to:

~~[1.]~~ *(a)* Receive considerate and respectful care.

~~[2.]~~ *(b)* Refuse treatment to the extent permitted by law and to be informed of the consequences of that refusal.

~~[3.]~~ *(c)* Refuse to participate in any medical experiments conducted at the facility.

~~[4.]~~ *(d)* Retain his privacy concerning his program of medical care. ~~[Discussions of a patient's care, consultation with other persons concerning the patient, examinations or treatments, and all communications and records concerning the patient, except as otherwise provided in NRS 108.640, 442.300 to 442.330, inclusive, and 449.705, and chapter 629 of NRS, are confidential. The patient must consent to the presence of any person who is not directly involved with his care during any examination, consultation or treatment.~~

~~5.]~~ *(e)* Have any reasonable request for services reasonably satisfied by the facility or home considering its ability to do so.

~~[6.]~~ *(f)* Receive continuous care from the facility or home. The patient must be informed:

~~[(a)]~~ *(1)* Of his appointments for treatment and the names of the persons available at the facility or home for those treatments; and

~~[(b)]~~ *(2)* By his physician or an authorized representative of the physician, of his need for continuing care.

2. Except as otherwise provided in NRS 108.640, 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS and section 1 of this act, discussions of the care of a patient, consultation with other persons concerning the patient, examinations or treatments, and all communications and records concerning the patient are confidential. The patient must consent to the presence of any person who is not directly involved with his care during any examination, consultation or treatment.

Sec. 9. ~~[NRS 453.157 is hereby amended to read as follows:~~

~~453.157 [A] *Except as otherwise provided in section 1 of this act, a* practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to

~~the Board, nor may he be compelled in any state or local civil, criminal, administrative, legislative or other proceeding to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.]~~ *(Deleted by amendment.)*

Sec. 10. ~~[NRS 453A.610 is hereby amended to read as follows:~~

~~453A.610 1. Except as otherwise provided in this section [,] and section 1 of this act,~~ the University of Nevada School of Medicine ~~shall maintain the confidentiality of and shall not disclose:~~

~~(a) The contents of any applications, records or other written materials that the School of Medicine creates or receives pursuant to the research program described in NRS 453A.600; or~~

~~(b) The name or any other identifying information of a person who has applied to or who participates in the research program described in NRS 453A.600.~~

~~2.~~ [The] *Except as otherwise provided in section 1 of this act, the* items of ~~information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.~~

~~2. Notwithstanding the provisions of subsection 1, the School of Medicine may release the name and other identifying information of a person who has applied to or who participates in the research program described in NRS 453A.600 to:~~

~~(a) Authorized employees of the State of Nevada as necessary to perform official duties related to the research program; and~~

~~(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is a lawful participant in the research program.]~~ *(Deleted by amendment.)*

Sec. 11. ~~[NRS 458.055 is hereby amended to read as follows:~~

~~458.055 1. To preserve the confidentiality of any information concerning persons applying for or receiving any services pursuant to NRS 458.010 to 458.350, inclusive, the Division may establish and enforce rules governing the confidential nature, custody, use and preservation of the records, files and communications filed with the Division. *Such rules must not conflict with the provisions of section 1 of this act.*~~

~~2. Wherever information concerning persons applying for and receiving any services pursuant to NRS 458.010 to 458.350, inclusive, is furnished to or held by any other government agency or a public or private institution, the use of that information by the agency or institution is subject to the rules established by the Division pursuant to subsection 1.~~

~~3. Except as otherwise provided in NRS 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS *and section 1 of this act*, and except for purposes directly connected with the administration of NRS 458.010 to 458.350, inclusive, a person shall not disclose, use or authorize the disclosure of any confidential information concerning a person receiving services pursuant to NRS 458.010 to 458.350, inclusive.]~~ *(Deleted by amendment.)*

Sec. 12. NRS 458.280 is hereby amended to read as follows:

458.280 1. Except as otherwise provided in subsection 2, NRS 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS, *and section 1 of this act*, the registration and other records of a treatment facility are confidential and must not be disclosed to any person not connected with the treatment facility without the consent of the patient.

2. The provisions of subsection 1 do not restrict the use of a patient's records for the purpose of research into the causes and treatment of alcoholism if such information is ~~[not]~~ *:*

(a) Not published in a way that discloses the patient's name or other identifying information ~~[.]~~ *; or*

(b) Disclosed pursuant to section 1 of this act.

Sec. 13. ~~[NRS 49.245 is hereby amended to read as follows:~~

~~49.245 There is no privilege under NRS 49.225 or 49.235:~~

~~1. For communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the doctor in the course of diagnosis or treatment has determined that the patient is in need of hospitalization.~~

~~2. As to communications made in the course of a court-ordered examination of the condition of a patient with respect to the particular purpose of the examination unless the court orders otherwise.~~

~~3. As to written medical or hospital records relevant to an issue of the condition of the patient in any proceeding in which the condition is an element of a claim or defense.~~

~~4. In a prosecution or mandamus proceeding under chapter 441A of NRS.~~

~~5. As to any information communicated to a physician in an effort unlawfully to procure a dangerous drug or controlled substance, or unlawfully to procure the administration of any such drug or substance.~~

~~6. As to any written medical or hospital records which are furnished in accordance with the provisions of NRS 629.061.~~

~~7. As to records that are required by chapter 453 of NRS to be maintained.~~

~~8. If the services of the physician are sought or obtained to enable or aid a person to commit or plan to commit fraud or any other unlawful act in violation of any provision of chapter 616A, 616B, 616C, 616D or 617 of NRS which the person knows or reasonably should know is fraudulent or otherwise unlawful.~~

~~9. *As to individually identifiable health information that is electronically transmitted in accordance with section 1 of this act.*]~~ *(Deleted by amendment.)*

Sec. 14. ~~[NRS 62E.620 is hereby amended to read as follows:~~

~~62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:~~

~~(a) An unlawful act in violation of NRS 484.379, 484.3795 or 484.37955;~~

~~(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or~~

~~(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.~~

~~2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:~~

~~(a) An alcohol and drug abuse counselor who is licensed or certified or an alcohol and drug abuse counselor intern who is certified pursuant to chapter 641C of NRS to make that classification; or~~

~~(b) A physician who is certified to make that classification by the Board of Medical Examiners.~~

~~3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:~~

~~(a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;~~

~~(b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and~~

~~(c) Is in good standing with the regulatory agency in the other state.~~

~~4. The evaluation of the child may be conducted at an evaluation center.~~

~~5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.~~

~~6. The juvenile court shall:~~

~~(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.~~

~~(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.~~

~~(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:~~

~~(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and~~

~~(2) The juvenile court may order the child, in lieu of paying the charges relating to his evaluation and treatment, to perform community service.~~

~~7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:~~

~~(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or~~

~~(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~8. The provisions of this section do not prohibit the juvenile court from:~~

~~(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Health Division of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.~~

~~(b) Ordering the child to attend a program of treatment which is administered by a private company.~~

~~9. All information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title ,~~ [or] ~~the juvenile court~~ [,] ~~*or section 1 of this act*, must not be disclosed to any person other than:~~

~~(a) The juvenile court;~~

~~(b) The child;~~

~~(c) The attorney for the child, if any;~~

~~(d) The parents or guardian of the child;~~

~~(e) The district attorney; and~~

~~(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.~~

~~10. A record of any finding that a child has violated the provisions of NRS 484.379, 484.3795 or 484.37955 must be included in the driver's record of that child for 7 years after the date of the offense.]~~ *(Deleted by amendment.)*

Sec. 15. ~~[NRS 379.008 is hereby amended to read as follows:~~

~~379.008 1. An application to the State Library and Archives Administrator for certification and all documents in the file of the State Library and Archives Administrator relating to an application, including:~~

~~(a)~~ [The] ~~*Except as otherwise provided in section 1 of this act, the* applicant's health records;~~

~~(b) The applicant's fingerprints and any report from the Federal Bureau of Investigation;~~

~~(c) Transcripts of the applicant's~~ [record] ~~*records* at colleges or other educational institutions;~~

~~(d) Correspondence concerning the application; and~~

~~(e) Other personal information concerning the applicant,~~

~~➡ are confidential.~~

~~2.~~ [It] ~~*Except as otherwise provided in section 1 of this act, it* is unlawful to disclose or release the information in an application or a related document~~ [except] ~~*unless the disclosure is made* pursuant to the written authorization of the applicant.~~

~~3. The State Library and Archives Administrator shall, upon request, make available the file of the applicant for inspection by the applicant during regular business hours.]~~ *(Deleted by amendment.)*

Sec. 16. ~~[NRS 391.035 is hereby amended to read as follows:~~

~~391.035 1. An application to the Superintendent of Public Instruction for a license as a teacher or to perform other educational functions and all documents in the Department's file relating to the application, including:~~

~~(a) [The]~~ *Except as otherwise provided in section 1 of this act, the* ~~applicant's health records;~~

~~(b) His fingerprints and any report from the Federal Bureau of Investigation or the Central Repository for Nevada Records of Criminal History;~~

~~(c) Transcripts of his [record]~~ *records* ~~at colleges or other educational institutions;~~

~~(d) His scores on the examinations administered pursuant to the regulations adopted by the Commission;~~

~~(e) Any correspondence concerning the application; and~~

~~(f) Any other personal information,~~

~~" are confidential.~~

~~2. [It]~~ *Except as otherwise provided in section 1 of this act, it* ~~is unlawful to disclose or release the information in an application or any related document [except]~~ *unless the disclosure is made* ~~pursuant to paragraph (d) of subsection 6 of NRS 179A.075 or the applicant's written authorization.~~

~~3. The Department shall, upon request, make available the applicant's file for his inspection during regular business hours.]~~ *(Deleted by amendment.)*

Sec. 17. NRS 396.525 is hereby amended to read as follows:

396.525 1. Except as otherwise provided in subsection 2 ~~[,]~~ *and section 1 of this act,* the records of the genetics program concerning the clients and families of clients are confidential.

2. The genetics program may share information in its possession with the University of Nevada School of Medicine and the Health Division of the Department of Health and Human Services, if the confidentiality of the information is otherwise maintained in accordance with the terms and conditions required by law.

Sec. 18. ~~[NRS 422.305 is hereby amended to read as follows:~~

~~422.305 1. Except as otherwise provided in subsection 2 , [and in] NRS 228.410 and 422.2374,~~ *and section 1 of this act,* ~~any information obtained by the Division in an investigation of a provider of services under the State Plan for Medicaid is confidential.~~

~~2. [The]~~ *Except as otherwise provided in this section, the* ~~information presented as evidence at a hearing:~~

~~(a) To enforce the provisions of NRS 422.450 to 422.590, inclusive; or~~

~~(b) To review an action by the Division against a provider of services under the State Plan for Medicaid,~~

~~" is not confidential ."~~[, except for the] ~~*The* identity of any recipient of the assistance~~[.] ~~*is confidential unless the disclosure of the identity of a recipient is made pursuant to section 1 of this act.]*~~ *(Deleted by amendment.)*

Sec. 19. ~~[NRS 422A.320 is hereby amended to read as follows:~~

~~422A.320 1. To restrict the use or disclosure of any information concerning applicants for and recipients of public assistance or assistance pursuant to the Children's Health Insurance Program to purposes directly connected to the administration of this chapter, and to provide safeguards therefor, under the applicable provisions of the Social Security Act, the Division shall establish and enforce reasonable regulations governing the custody, use and preservation of any records, files and communications filed with the Division. *The regulations must not conflict with the provisions set forth in section 1 of this act.*~~

~~2. If, pursuant to a specific statute or a regulation of the Division, names and addresses of, or information concerning, applicants for and recipients of assistance, including, without limitation, assistance pursuant to the Children's Health Insurance Program, are furnished to or held by any other agency or department of government, such agency or department of government is bound by the regulations of the Division prohibiting the publication of lists and records thereof or their use for purposes not directly connected with the administration of this chapter.~~

~~3. Except for purposes directly connected with the administration of this chapter~~[,] ~~*and except as otherwise provided in section 1 of this act*~~, ~~no person may publish, disclose or use, or permit or cause to be published, disclosed or used, any confidential information pertaining to a recipient of assistance, including, without limitation, a recipient of assistance pursuant to the Children's Health Insurance Program, under the provisions of this chapter.]~~ *(Deleted by amendment.)*

Sec. 20. ~~[NRS 428.045 is hereby amended to read as follows:~~

~~428.045 1. To restrict the use or disclosure of any information concerning applicants for or recipients of public assistance to those purposes directly related to the administration of this chapter, and to provide safeguards therefor, the board of county commissioners of each county shall establish and enforce ordinances governing the custody, use and preservation of the records, files and communications related to those persons~~[that] ~~*which* are filed with the board. *The ordinances must not conflict with the provisions set forth in section 1 of this act.*~~

~~2. If, under the provisions of law or the ordinances of a board of county commissioners adopted pursuant to subsection 1, the names and addresses of, or information concerning, applicants for or recipients of public assistance are furnished to or held by any other agency or department of government, the agency or department shall comply with the ordinances of the board of county commissioners prohibiting the publication of lists and records thereof or their use for purposes not directly connected with the administration of this chapter.~~

~~3. Except for purposes directly related to the administration of this chapter [,] and except as otherwise provided in section 1 of this act, no person may publish, disclose or use, or permit or cause to be published, disclosed or used, any confidential information relating to an applicant for or a recipient of public assistance under the provisions of this chapter.~~

~~4. As used in this section, "public assistance" means medical or financial assistance provided by a county pursuant to this chapter.~~] *(Deleted by amendment.)*

Sec. 21. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. ~~[Reports]~~ *Except as otherwise provided in section 1 of this act, reports* made pursuant to this chapter, as well as all records concerning these reports and investigations thereof, are confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases data or information concerning such reports and investigations, except:

(a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;

(b) As otherwise authorized or required pursuant to NRS 432B.290; ~~[or]~~

(c) As otherwise required pursuant to NRS 432B.513 ~~[,]~~ *; or*

(d) As otherwise authorized or required pursuant to section 1 of this act,

➥ is guilty of a misdemeanor.

Sec. 22. ~~[NRS 432B.407 is hereby amended to read as follows:~~

~~432B.407 1. A multidisciplinary team to review the death of a child is entitled to access to:~~

~~(a) All investigative information of law enforcement agencies regarding the death;~~

~~(b) Any autopsy and coroner's investigative records relating to the death;~~

~~(c) Any medical or mental health records of the child; and~~

~~(d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the child or the child's family.~~

~~2. Each organization represented on a multidisciplinary team to review the death of a child shall share with other members of the team information in its possession concerning the child who is the subject of the review, any siblings of the child, any person who was responsible for the welfare of the child and any other information deemed by the organization to be pertinent to the review.~~

~~3. A multidisciplinary team to review the death of a child may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the team. Any books, records or papers received by the team pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.~~

~~4. [Information] Except as otherwise provided in section 1 of this act, information acquired by, and the records of, a multidisciplinary team to review the death of a child are confidential, must not be disclosed, and are~~

~~not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.]~~ *(Deleted by amendment.)*

Sec. 23. NRS 433.332 is hereby amended to read as follows:

433.332 1. If a patient in a division facility is transferred to another division facility or to a medical facility, a facility for the dependent or a physician licensed to practice medicine, the division facility shall forward a copy of the medical records of the patient, on or before the date the patient is transferred, to the facility or physician. Except as otherwise required by 42 U.S.C. §§ ~~[290dd-3 and 290ee-3,]~~ *290dd, 290dd-1 or 290dd-2 or section 1 of this act,* the division facility is not required to obtain the oral or written consent of the patient to forward a copy of the medical records.

2. As used in this section, "medical records" includes a medical history of the patient, a summary of the current physical condition of the patient and a discharge summary which contains the information necessary for the proper treatment of the patient.

Sec. 24. NRS 433.482 is hereby amended to read as follows:

433.482 Each client admitted for evaluation, treatment or training to a facility has the following personal rights, a list of which must be prominently posted in all facilities providing those services and must be otherwise brought to the attention of the client by such additional means as prescribed by regulation:

1. To wear his own clothing, to keep and use his own personal possessions, including his toilet articles, unless those articles may be used to endanger his or others' lives, and to keep and be allowed to spend a reasonable sum of his own money for expenses and small purchases.

2. To have access to individual space for storage for his private use.

3. To see visitors each day.

4. To have reasonable access to telephones, both to make and receive confidential calls.

5. To have ready access to materials for writing letters, including stamps, and to mail and receive unopened correspondence, but:

(a) For the purposes of this subsection, packages are not considered as correspondence; and

(b) Correspondence identified as containing a check payable to a client may be subject to control and safekeeping by the administrative officer of that facility or his designee, so long as the client's record of treatment documents the action.

6. To have reasonable access to an interpreter if the client does not speak English or is hearing impaired.

7. To designate a person who must be kept informed by the facility of the client's medical and mental condition, if the client signs a release allowing the facility to provide such information to the person.

8. ~~[To]~~ *Except as otherwise provided in section 1 of this act, to* have access to his medical records denied to any person other than:

(a) A member of the staff of the facility or related medical personnel, as appropriate;

(b) A person who obtains a waiver by the client of his right to keep the medical records confidential; or

(c) A person who obtains a court order authorizing the access.

9. Other personal rights as specified by regulation of the Commission.

Sec. 25. NRS 433A.360 is hereby amended to read as follows:

433A.360 1. A clinical record for each client must be diligently maintained by any division facility or private institution or facility offering mental health services. The record must include information pertaining to the client's admission, legal status, treatment and individualized plan for habilitation. The clinical record is not a public record and no part of it may be released, except:

(a) *If the release is authorized or required pursuant to section 1 of this act.*

(b) The record must be released to physicians, attorneys and social agencies as specifically authorized in writing by the client, his parent, guardian or attorney.

~~[(b)]~~ *(c)* The record must be released to persons authorized by the order of a court of competent jurisdiction.

~~[(c)]~~ *(d)* The record or any part thereof may be disclosed to a qualified member of the staff of a division facility, an employee of the Division or a member of the staff of an agency in Nevada which has been established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act *of 2000,* 42 U.S.C. §§ ~~[6041]~~ *15001* et seq., or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator deems it necessary for the proper care of the client.

~~[(d)]~~ *(e)* Information from the clinical records may be used for statistical and evaluative purposes if the information is abstracted in such a way as to protect the identity of individual clients.

~~[(e)]~~ *(f)* To the extent necessary for a client to make a claim, or for a claim to be made on behalf of a client for aid, insurance or medical assistance to which he may be entitled, information from the records may be released with the written authorization of the client or his guardian.

~~[(f)]~~ *(g)* The record must be released without charge to any member of the staff of an agency in Nevada which has been established pursuant to 42 U.S.C. §§ ~~[6041]~~ *15001* et seq. or 42 U.S.C. §§ 10801 et seq. if:

(1) The client is a client of that office and he or his legal representative or guardian authorizes the release of the record; or

(2) A complaint regarding a client was received by the office or there is probable cause to believe that the client has been abused or neglected and the client:

(I) Is unable to authorize the release of the record because of his mental or physical condition; and

(II) Does not have a guardian or other legal representative or is a ward of the State.

~~[(g)]~~ *(h)* The record must be released as provided in NRS 433.332 or 433B.200 and in chapter 629 of NRS.

2. As used in this section, "client" includes any person who seeks, on his own or others' initiative, and can benefit from, care, treatment and training in a private institution or facility offering mental health services, or from treatment to competency in a private institution or facility offering mental health services.

Sec. 26. ~~[NRS 629.068 is hereby amended to read as follows:~~

~~629.068 1. A provider of health care shall, upon request of the Director of the Department of Corrections or his designee, provide the Department of Corrections with a complete copy of the health care records of an offender confined at the state prison.~~

~~2. Records provided to the Department of Corrections must not be used at any public hearing unless:~~

~~(a) *The use is authorized or required pursuant to section 1 of this act;*~~

~~*(b)* The offender named in the records has consented in writing to their use; or~~

~~[(b)]~~ ~~*(c)* Appropriate procedures are [utilized] *used* to protect the identity of the offender from public disclosure.~~

~~3. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.]~~ *(Deleted by amendment.)*

Sec. 27. NRS 629.161 is hereby amended to read as follows:

629.161 1. It is unlawful to retain genetic information that identifies a person, without first obtaining the informed consent of the person or the person's legal guardian pursuant to NRS 629.181, unless retention of the genetic information is:

(a) *Authorized or required pursuant to section 1 of this act;*

(b) Necessary to conduct a criminal investigation, an investigation concerning the death of a person or a criminal or juvenile proceeding;

~~[(b)]~~ *(c)* Authorized pursuant to an order of a court of competent jurisdiction; or

~~[(c)]~~ *(d)* Necessary for a medical facility as defined in NRS 449.0151 to maintain a medical record of the person.

2. A person who has authorized another person to retain his genetic information may request that person to destroy the genetic information. If so requested, the person who retains that genetic information shall destroy the information, unless retention of that information is:

(a) *Authorized or required pursuant to section 1 of this act;*

(b) Necessary to conduct a criminal investigation, an investigation concerning the death of a person or a criminal or juvenile proceeding;

~~[(b)]~~ *(c)* Authorized by an order of a court of competent jurisdiction;

~~[(c)]~~ *(d)* Necessary for a medical facility as defined in NRS 449.0151 to maintain a medical record of the person; or

~~[(d)]~~ *(e)* Authorized or required by state or federal law or regulation.

3. Except as otherwise provided in subsection 4 or by federal law or regulation, a person who obtains the genetic information of a person for use in a study shall destroy that information upon:

(a) The completion of the study; *or*

(b) The withdrawal of the person from the study,

➥ whichever occurs first.

4. A person whose genetic information is used in a study may authorize the person who conducts the study to retain that genetic information after the study is completed or upon his withdrawal from the study.

Sec. 28. ~~[NRS 630.30665 is hereby amended to read as follows:~~

~~630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report:~~

~~(a) Stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:~~

~~(1) At a medical facility as that term is defined in NRS 449.0151; or~~

~~(2) Outside of this State; and~~

~~(b) Reporting the occurrence of any sentinel event arising from any such surgery.~~

~~2. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action.~~

~~3. The Board shall:~~

~~(a) Collect and maintain reports received pursuant to subsection 1; and~~

~~(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.~~

~~4. [A] *Except as otherwise provided in section 1 of this act, a* report received pursuant to subsection 1 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~5. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~

~~6. As used in this section:~~

~~(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.~~

~~(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.~~

~~(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.~~

~~(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.~~] *(Deleted by amendment.)*

Sec. 29. NRS 639.238 is hereby amended to read as follows:

639.238 1. Prescriptions filled and on file in a pharmacy are not a public record. Except as otherwise provided in NRS 639.2357, *and section 1 of this act,* a pharmacist shall not divulge the contents of any prescription or provide a copy of any prescription, except to:

(a) The patient for whom the original prescription was issued;

(b) The practitioner who originally issued the prescription;

(c) A practitioner who is then treating the patient;

(d) A member, inspector or investigator of the Board or an inspector of the Food and Drug Administration or an agent of the Investigation Division of the Department of Public Safety;

(e) An agency of State Government charged with the responsibility of providing medical care for the patient;

(f) An insurance carrier, on receipt of written authorization signed by the patient or his legal guardian, authorizing the release of such information;

(g) Any person authorized by an order of a district court;

(h) Any member, inspector or investigator of a professional licensing board which licenses a practitioner who orders prescriptions filled at the pharmacy;

(i) Other registered pharmacists for the limited purpose of and to the extent necessary for the exchange of information relating to persons who are suspected of:

(1) Misusing prescriptions to obtain excessive amounts of drugs; or

(2) Failing to use a drug in conformity with the directions for its use or taking a drug in combination with other drugs in a manner that could result in injury to that person; ~~[or]~~

(j) A peace officer employed by a local government for the limited purpose of and to the extent necessary:

(1) For the investigation of an alleged crime reported by an employee of the pharmacy where the crime was committed; or

(2) To carry out a search warrant or subpoena issued pursuant to a court order ~~[.]~~ *; or*

(k) A county coroner, medical examiner or investigator employed by an office of a county coroner for the purpose of:

(1) Identifying a deceased person;

(2) Determining a cause of death; or

(3) Performing other duties authorized by law.

2. Any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is issued to a county coroner, medical examiner or investigator employed by an office of a county coroner must be limited to a copy of the prescription filled or on file for:

(a) The person whose name is on the container of the controlled substance or dangerous drug that is found on or near the body of a deceased person; or

(b) The deceased person whose cause of death is being determined.

3. Except as otherwise provided in NRS 639.2357, any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS, issued to a person authorized by this section to receive such a copy, must contain all of the information appearing on the original prescription and be clearly marked on its face "Copy, Not Refillable—For Reference Purposes Only." The copy must bear the name or initials of the registered pharmacist who prepared the copy.

4. If a copy of a prescription for any controlled substance or a dangerous drug as defined in chapter 454 of NRS is furnished to the customer, the original prescription must be voided and notations made thereon showing the date and the name of the person to whom the copy was furnished.

5. As used in this section, "peace officer" does not include:

(a) A member of the Police Department of the Nevada System of Higher Education.

(b) A school police officer who is appointed or employed pursuant to NRS 391.100.

Sec. 30. ~~[NRS 652.190 is hereby amended to read as follows:~~

~~652.190 1. A laboratory may examine specimens only at the request of:~~

~~(a) A licensed physician;~~

~~(b) Any other person authorized by law to use the findings of laboratory tests and examinations; or~~

~~(c) If the examination can be made with a testing device or kit which is approved by the Food and Drug Administration for use in the home and which is available to the public without a prescription, any person.~~

~~2. Except as otherwise provided in NRS 441A.150, 442.325 and 652.193,~~ *and section 1 of this act,* ~~the laboratory may report the results of the examination only to:~~

~~(a) The person requesting the test or procedure;~~

~~(b) A provider of health care who is treating or providing assistance in the treatment of the patient;~~

~~(c) A provider of health care to whom the patient has been referred; and~~

~~(d) The patient for whom the testing or procedure was performed.~~

~~3. The laboratory report must contain the name of the laboratory. If a specimen is accepted by a laboratory and is referred to another laboratory, the name and address of the other laboratory must be clearly shown by the referring laboratory on the report to the person requesting the test or procedure.~~

~~4. Whenever an examination is made pursuant to paragraph (c) of subsection 1, the laboratory report must contain a provision which recommends that the results of the examination be reviewed and interpreted by a physician or other licensed provider of health care.~~] *(Deleted by amendment.)*

Sec. 31. NRS 688C.320 is hereby amended to read as follows:

688C.320 ~~[All]~~ *Except as otherwise provided in section 1 of this act, all* medical information solicited or obtained by a licensee under this chapter is subject to other laws of this State relating to the confidentiality of the information.

Sec. 32. NRS 689B.280 is hereby amended to read as follows:

689B.280 1. Except as otherwise provided in subsection 2, *and section 1 of this act,* an insurer or any agent or employee of an insurer who delivers or issues for delivery a policy of group health or blanket health insurance in this State shall not disclose to the policyholder or any agent or employee of the policyholder:

(a) The fact that an insured is taking a prescribed drug or medicine; or

(b) The identity of that drug or medicine.

2. The provisions of subsection 1 do not prohibit disclosure to an administrator who acts as an intermediary for claims for insurance coverage.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Senate Bill No. 432 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senator Raggio moved that Senate Bills Nos. 152, 314, 355, 387, 400, 404 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that the Senate recess until 3:30 p.m.

Motion carried.

Senate in recess at 2:10 p.m.

SENATE IN SESSION

At 4:25 p.m.

President pro Tempore Amodei presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bills Nos. 381, 438, be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Care.

Motion carried.

Senator Townsend moved that Senate Bill No. 543 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Townsend.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 72.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 14.

"SUMMARY—Adopts the Uniform Limited Partnership Act (2001)" and provides for its applicability on a voluntary basis. (BDR 7-720)"

"AN ACT relating to business entities; adopting the Uniform Limited Partnership Act (2001) and providing for its applicability on a voluntary basis; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Uniform Limited Partnership Act, as amended in 1976 and 1985, has been adopted in 49 states, the District of Columbia and the U.S. Virgin Islands. (Chapter 88 of NRS) In 2001, however, the Uniform Law Commissioners adopted a completely new version of the Uniform Limited Partnership Act. The new Act has been adopted by at least 10 states and is currently under consideration by one other state legislature. This bill allows an existing limited partnership or a future limited partnership to elect to be governed by the provisions of the existing Act or the provisions of the new Act.

The provisions of the new Act address the changing manner in which limited partnerships are used. These provisions were made to specifically address limited partnerships used for family limited partnerships in estate planning and used for highly sophisticated, manager-controlled limited partnerships.

The existing Act requires the duration of the limited partnership to be specified in the certificate of the limited partnership. The new Act deletes this requirement and provides the default rule that the partnership continues

unless the agreement provides for termination, thereby providing for the partnership to continue as a perpetual entity.

Under the existing Act, a limited partner may withdraw from the partnership by providing 6 months' notice, unless the partnership agreement specifies the withdrawal events for a limited partner. The new Act provides that there is no right to ~~[disassociate]~~ *withdraw* as a limited partner before the termination of the limited partnership. The power to ~~[disassociate]~~ *withdraw* may only be exercised through the partnership agreement or through specific events.

Under the existing Act, a limited partner can be held liable for the debts of the entity if he participates in the control of the business and a third party transacts business with the partnership with the reasonable belief that the limited partner is a general partner. General partners have complete liability for such acts. The new Act provides that a limited partner cannot be held liable for the partnership debts even if he participates in the management and control of the limited partnership. In addition, the new Act provides that limited-liability limited partnership status may be used to provide a shield to liability to all general partners.

The existing Act prohibits the use of a limited partner's name in the name of the entity except in unusual circumstances. The new Act removes that prohibition so that a limited partner's name may be incorporated into the business name of an entity created as a limited partnership.

The existing Act provides that dissolution of the partnership entity requires the unanimous, written consent of all the partners. The new Act provides that only consent of all the general partners and limited partners owning a majority of the rights to receive distributions as limited partners is required to dissolve the partnership.

The new Act makes various other changes recommended by the Uniform Law Commissioners and addresses such issues as allocating power between general partners and limited partners and setting fiduciary duties owed by general partners to other general and limited partners.

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

Section 1. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 138, inclusive, of this act.

Sec. 2. *This chapter may be cited as the Uniform Limited Partnership Act (2001).*

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

Sec. 4. *"Certificate of limited partnership" means the certificate required by section 47 of this act. The term includes the certificate as amended or restated.*

Sec. 5. *"Contribution," except in the phrase "right of contribution," means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner.*

Sec. 6. *"Debtor in bankruptcy" means a person that is the subject of:*

1. An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

2. A comparable order under federal, state or foreign law governing insolvency.

Sec. 7. *"Designated office" means:*

1. With respect to a limited partnership, the office that the limited partnership is required to designate and maintain under section 43 of this act; and

2. With respect to a foreign limited partnership, its principal office.

Sec. 8. *"Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.*

Sec. 9. *"Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this State and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited-liability limited partnership.*

Sec. 10. *"Foreign registered limited-liability limited partnership" means a foreign limited-liability limited partnership:*

1. Formed pursuant to an agreement governed by the laws of another state; and

2. Registered pursuant to and complying with sections 107 to 124, inclusive, and 129 of this act.

Sec. 11. *"General partner" means:*

1. With respect to a limited partnership, a person that:

(a) Becomes a general partner under section 70 of this act; or

(b) Was a general partner in a limited partnership subject to chapter 88 of NRS when the limited partnership voluntarily elected to become subject to this chapter; and

2. With respect to a foreign limited partnership, a person that has rights, powers and obligations similar to those of a general partner in a limited partnership.

Sec. 12. *"Limited partner" means:*

1. With respect to a limited partnership, a person that:

(a) Becomes a limited partner under section 64 of this act; or

(b) Was a limited partner in a limited partnership subject to chapter 88 of NRS when the limited partnership voluntarily elected to become subject to this chapter; and

2. With respect to a foreign limited partnership, a person that has rights, powers and obligations similar to those of a limited partner in a limited partnership.

Sec. 13. *"Limited partnership," except in the phrases "foreign limited partnership," "foreign limited-liability limited partnership" and "foreign registered limited-liability limited partnership," means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons. The term includes a registered limited-liability limited partnership.*

Sec. 14. *"Partner" means a limited partner or general partner.*

Sec. 15. *"Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. The term includes the agreement as amended.*

Sec. 16. *"Person" means any natural person, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, any public corporation or any other legal or commercial entity.*

Sec. 17. *"Person ~~[dissociated]~~ withdrawn as a general partner" means a person ~~[dissociated]~~ withdrawn as a general partner of a limited partnership.*

Sec. 18. *"Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this State.*

Sec. 19. *"Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.*

Sec. 20. *"Registered limited-liability limited partnership" means a limited partnership:*

1. Formed pursuant to an agreement governed by this chapter; and

2. Registered pursuant to and complying with sections 125 to 129, inclusive, of this act.

Sec. 21. *"Required information" means the information that a limited partnership is required to maintain under section 40 of this act.*

Sec. 22. *"Resident agent" means the agent appointed by a limited partnership upon whom process or a notice or demand authorized by law to be served upon the limited partnership may be served.*

Sec. 23. *"Sign" means to affix a signature to a record.*

Sec. 24. *"Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.*

Sec. 25. *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 26. *"Street address" of a resident agent means the actual physical location in this State at which a resident agent is available for service of process.*

Sec. 27. *"Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift and transfer by operation of law.*

Sec. 28. *"Transferable interest" means a partner's right to receive distributions.*

Sec. 29. *"Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.*

Sec. 30. *The provisions of this chapter apply to a limited partnership:*

1. Which was formed before, on or after October 1, 2007, and which voluntarily elects to be governed by the provisions of this chapter; or

2. Which is formed on or after October 1, 2007, and which does not voluntarily elect to be governed by the provisions of chapter 88 of NRS.

Sec. 31. *1. A person knows a fact if the person has actual knowledge of it.*

2. A person has notice of a fact if the person:

(a) Knows of it;

(b) Has received a notification of it;

(c) Has reason to know it exists from all of the facts known to the person at the time in question; or

(d) Has notice of it under subsection 3 or 4.

3. A certificate of limited partnership on file in the Office of the Secretary of State is notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except as otherwise provided in subsection 4, the certificate is not notice of any other fact.

4. A person has notice of:

(a) Another person's ~~[dissociation]~~ withdrawal as a general partner, 90 days after the effective date of an amendment to the certificate of limited partnership which states that the other person has ~~[dissociated]~~ withdrawn or 90 days after the effective date of a ~~[statement of dissociation]~~ certificate of withdrawal pertaining to the other person, whichever occurs first;

(b) A limited partnership's dissolution, 90 days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved;

(c) A limited partnership's termination, 90 days after the effective date of a ~~[statement of termination;]~~ certificate of cancellation;

(d) A limited partnership's conversion, 90 days after the effective date of the articles of conversion; or

(e) A merger, 90 days after the effective date of the articles of merger.

5. A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

6. A person receives a notification when the notification:

(a) Comes to the person's attention; or

(b) Is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

7. Except as otherwise provided in subsection 8, a person other than a natural person knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the natural person conducting the transaction for the person knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the natural person's attention if the person had exercised reasonable diligence. A person other than a natural person exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the natural person conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence does not require a natural person acting for the person to communicate information unless the communication is part of the natural person's regular duties or the natural person has reason to know of the transaction and that the transaction would be materially affected by the information.

8. A general partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is effective immediately as knowledge of, notice to, or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is not effective as knowledge of, notice to, or receipt of a notification by the limited partnership.

Sec. 32. *1. A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether the limited partnership has registered as a registered limited-liability limited partnership.*

2. A limited partnership may be organized under this chapter for any lawful purpose.

3. A limited partnership has a perpetual duration.

Sec. 33. *A limited partnership has the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by a breach of the partnership agreement or violation of a duty to the partnership.*

Sec. 34. *The law of this State governs:*

1. Relations among the partners of a limited partnership and between the partners and the limited partnership; and

2. The liability of partners as partners for an obligation of the limited partnership.

Sec. 35. *1. Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.*

2. If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in NRS 99.040.

Sec. 36. *1. Except as otherwise provided in section 126 of this act, the name proposed for a limited partnership as set forth in its certificate of limited partnership:*

(a) Must contain the words "Limited Partnership," or the abbreviation "LP" or "L.P.";

(b) May contain the name of any partner; and

(c) Must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name on the certificate of limited partnership submitted to the Secretary of State is not distinguishable from any name on file or reserved name, the Secretary of State shall return the certificate to the filer, unless the written, acknowledged consent to the use of the same or the requested similar name of the holder of the name on file or reserved name accompanies the certificate of limited partnership.

2. For the purposes of this section, a proposed name is not distinguished from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

3. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the limited partnership:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the limited partnership is not engaged in the practice of accounting and is not offering to practice accounting in this State.

4. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the word "bank" or "trust" unless:

(a) It appears from the certificate of limited partnership that the limited partnership proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and

(b) The certificate of limited partnership is first approved by the Commissioner of Financial Institutions.

5. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the provisions of this chapter if it appears from the certificate of limited

partnership that the business to be carried on by the limited partnership is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions, unless the certificate of limited partnership is approved by the Commissioner who will supervise the business of the limited partnership.

6. Except as otherwise provided in subsection 5, the Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

(a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the limited partnership are licensed to practice engineering pursuant to the laws of this State; or

(b) The State Board of Professional Engineers and Land Surveyors certifies that the limited partnership is exempt from the prohibitions of NRS 625.520.

7. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the certificate of limited partnership that the purpose of the limited partnership is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the limited partnership has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

8. The name of a limited partnership whose right to transact business has been forfeited, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

9. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 37. *1. The exclusive right to the use of a name may be reserved by:*

(a) Any person intending to organize a limited partnership under this chapter and to adopt that name;

(b) Any domestic limited partnership or any foreign limited partnership registered in this State which, in either case, intends to adopt that name;

(c) Any foreign limited partnership intending to register in this State and adopt that name; and

(d) Any person intending to organize a foreign limited partnership and intending to have it registered in this State and adopt that name.

2. The reservation must be made by filing with the Secretary of State an application, signed by the applicant, to reserve a specified name. If the Secretary of State finds that the name is available for use by a domestic or foreign limited partnership, he shall reserve the name for the exclusive use of the applicant for a period of 90 days. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the Office of the Secretary of State a notice of the transfer, signed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

Sec. 38. *1. Except as otherwise provided in subsection 2, if a limited partnership applies to reinstate its right to transact business but its name has been legally reserved or acquired by any other artificial person formed, organized, registered or qualified pursuant to the provisions of this title whose name is on file with the Office of the Secretary of State or reserved in the Office of the Secretary of State pursuant to the provisions of this title, the applying limited partnership shall submit in writing to the Secretary of State some other name under which it desires its right to be reinstated. If that name is distinguishable from all other names reserved or otherwise on file, the Secretary of State shall reinstate the limited partnership under that new name.*

2. If the applying limited partnership submits the written, acknowledged consent of the other artificial person having the name, or the person who has reserved the name, that is not distinguishable from the old name of the applying limited partnership or a new name it has submitted, it may be reinstated under that name.

3. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

4. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 39. *1. Except as otherwise provided in subsection 2, the partnership agreement governs relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.*

2. A partnership agreement may not:

(a) Vary a limited partnership's power under section 33 of this act to sue, be sued and defend in its own name;

(b) Vary the law applicable to a limited partnership under section 34 of this act;

(c) Vary the requirements of section 50 of this act;

(d) Vary the information required under section 40 of this act or unreasonably restrict the right to information under section 67 or 76 of this act, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(e) Eliminate the duty of loyalty under section 77 of this act, but the partnership agreement may:

(1) Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and

(2) Specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(f) Unreasonably reduce the duty of care under subsection 3 of section 77 of this act;

(g) Eliminate the obligation of good faith and fair dealing under subsection 2 of section 68 of this act and subsection 4 of section 77 of this act, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(h) Vary the power of a person to ~~[dissociate]~~ withdraw as a general partner under subsection 1 of section 90 of this act except to require that the notice under subsection 1 of section 89 of this act be in a record;

(i) Vary the power of a court to decree dissolution in the circumstances specified in section 99 of this act;

(j) Vary the requirement to wind up the partnership's business as specified in section 100 of this act;

(k) Unreasonably restrict the right to maintain an action under sections 130 to 134, inclusive, of this act;

(l) Restrict the right of a partner to approve a conversion or merger; or

(m) Restrict rights under this chapter of a person other than a partner or a transferee.

Sec. 40. *A limited partnership shall maintain at its designated office the following information:*

1. A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order.

2. A copy of the ~~[initial]~~ certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment or restatement has been signed.

3. A copy of any filed articles of conversion or merger.

4. A copy of the limited partnership's federal, state and local income tax returns and reports, if any, for the 3 most recent years.

5. A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement.

6. A copy of any financial statement of the limited partnership for the 3 most recent years.

7. A copy of the three most recent annual lists filed with the Secretary of State pursuant to section 58 of this act.

8. A copy of any record made by the limited partnership during the past 3 years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement.

9. Unless contained in a partnership agreement made in a record, a record stating:

(a) The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;

(b) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(c) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(d) Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

Sec. 41. *A partner may lend money to and transact other business with the limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.*

Sec. 42. *A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations, duties and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties and restrictions under this chapter and the partnership agreement for limited partners.*

Sec. 43. *1. Each limited partnership shall designate and continuously maintain in this State:*

(a) An office, which may but need not be a place of its business in this State, at which must be kept the records required by section 40 of this act to be maintained; and

(b) A resident agent.

2. Every resident agent shall file a certificate in the Office of the Secretary of State, setting forth his street address where process may be served upon the limited partnership and his mailing address if different from the street address.

3. Within 30 days after changing the location of his office from one address to another in this State, a resident agent shall file a certificate

with the Secretary of State setting forth the names of the limited partnerships represented by the agent, the address at which he has maintained the office for each of the limited partnerships, and the new address to which the office is transferred.

4. Within 30 days after changing the location of the office which contains records for a limited partnership, a general partner of the limited partnership shall file a certificate of a change in address with the Secretary of State which sets forth the name of the limited partnership, the previous address of the office which contains records and the new address of the office which contains records.

Sec. 44. *1. If a limited partnership created pursuant to this chapter desires to change its resident agent, the change may be effected by filing with the Secretary of State a certificate of change of resident agent, signed by a general partner, which sets forth:*

(a) The name of the limited partnership;

(b) The name and street address of its present resident agent; and

(c) The name and street address of the new resident agent.

2. The new resident agent's certificate of acceptance must be a part of or attached to the certificate of change of resident agent.

3. If the name of a resident agent is changed as a result of a merger, conversion, exchange, sale, reorganization or amendment, the resident agent shall:

(a) File with the Secretary of State a certificate of name change of resident agent that includes:

(1) The current name of the resident agent as filed with the Secretary of State;

(2) The new name of the resident agent; and

(3) The name and file number of each artificial person formed, organized, registered or qualified pursuant to the provisions of this title that the resident agent represents; and

(b) Pay to the Secretary of State a filing fee of $100.

4. A change authorized by this section becomes effective upon the filing of the proper certificate of change.

Sec. 45. *1. A resident agent who desires to resign shall:*

(a) File with the Secretary of State a signed statement in the manner provided pursuant to subsection 1 of NRS 78.097 that he is unwilling to continue to act as the resident agent of the limited partnership for the service of process; and

(b) Pay to the Secretary of State the filing fee set forth in subsection 1 of NRS 78.097.

➥ *A resignation is not effective until the signed statement is filed with the Secretary of State.*

2. The statement of resignation may contain a statement by the affected limited partnership appointing a successor resident agent for the limited partnership. A certificate of acceptance signed by the new agent, stating the

full name, complete street address and, if different from the street address, mailing address of the new agent, must accompany the statement appointing the new agent.

3. Upon the filing of the statement with the Secretary of State, the capacity of the person as resident agent terminates. If the statement of resignation does not contain a statement by the limited partnership appointing a successor resident agent, the resigning agent shall immediately give written notice, by mail, to the limited partnership of the filing of the statement and the effect thereof. The notice must be addressed to a general partner of the partnership other than the resident agent.

4. If a designated resident agent dies, resigns or removes from the State, the limited partnership, within 30 days thereafter, shall file with the Secretary of State a certificate of acceptance, signed by the new resident agent. The certificate must set forth the full name, complete street address and, if different from the street address, mailing address of the newly designated resident agent.

5. Each limited partnership which fails to file a certificate of acceptance signed by the new resident agent within 30 days after the death, resignation or removal of its resident agent as provided in subsection 4 shall be deemed in default and is subject to the provisions of sections 60 and 61 of this act.

Sec. 46. *Action requiring the consent of partners under this chapter may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact.*

Sec. 47. *1. In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the Secretary of State for filing. The certificate must state:*

(a) The name of the limited partnership;

(b) The street and mailing address of the initial designated office and the name and street and mailing address of the resident agent for service of process;

(c) The name and the street and mailing address of each general partner; and

(d) Any additional information required by chapter 92A of NRS.

2. A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in subsection 2 of section 39 of this act in a manner inconsistent with that section.

3. If there has been substantial compliance with subsection 1, a limited partnership is formed on the later of the filing of the certificate of limited partnership or a date specified in the certificate of limited partnership.

4. Subject to subsection 2, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed ~~[statement of dissociation, termination]~~ certificate of withdrawal, certificate of cancellation or statement of change or filed articles of conversion or merger:

(a) The partnership agreement prevails as to partners and transferees; and

(b) The filed certificate of limited partnership, ~~[statement of dissociation, termination]~~ certificate of withdrawal, certificate of cancellation or statement of change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

5. A certificate of acceptance of appointment of a resident agent, signed by the agent, must be filed with the certificate of limited partnership.

Sec. 48. *1. In order to amend its certificate of limited partnership, a limited partnership must deliver to the Secretary of State for filing an amendment or articles of merger stating:*

(a) The name of the limited partnership; and

(b) ~~[The date of filing of its initial certificate; and~~

~~(c)]~~ The changes the amendment makes to the certificate as most recently amended or restated.

2. A limited partnership shall promptly deliver to the Secretary of State for filing an amendment to a certificate of limited partnership to reflect:

(a) The admission of a new general partner;

(b) The ~~[dissociation]~~ withdrawal of a person as a general partner; or

(c) The appointment of a person to wind up the limited partnership's activities under subsection 3 or 4 of section 100 of this act.

3. A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:

(a) Cause the certificate to be amended; or

(b) If appropriate, deliver to the Secretary of State for filing a certificate of correction pursuant to section 55 of this act.

4. A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

5. A restated certificate of limited partnership may be delivered to the Secretary of State for filing in the same manner as an amendment.

6. An amendment or restated certificate is effective when filed by the Secretary of State ~~[.]~~ or upon a later date specified in the certificate, which must not be more than 90 days after the certificate is filed.

Sec. 49. *A dissolved limited partnership that has completed winding up may deliver to the Secretary of State for filing a ~~[statement of termination]~~ certificate of cancellation that states:*

1. The name of the limited partnership; and

2. ~~[The date of filing of its initial certificate of limited partnership; and~~

~~3.]~~ Any other information as determined by the general partners filing the statement or by a person appointed pursuant to subsection 3 or 4 of section 100 of this act.

Sec. 50. *1. Each record delivered to the Secretary of State for filing pursuant to this chapter must be signed in the following manner:*

(a) ~~[An initial]~~ A certificate of limited partnership must be signed by all general partners listed in the certificate.

(b) An amendment designating as general partner a person admitted under paragraph (b) of subsection 3 of section 98 of this act following the ~~[dissociation]~~ withdrawal of a limited partnership's last general partner must be signed by that person.

(c) An amendment required by subsection 3 of section 100 of this act following the appointment of a person to wind up the dissolved limited partnership's activities must be signed by that person.

(d) Any other amendment must be signed by:

(1) At least one general partner listed in the certificate;

(2) Each other person designated in the amendment as a new general partner; and

(3) Each person that the amendment indicates has ~~[dissociated]~~ withdrawn as a general partner, unless:

(I) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or

(II) The person has previously delivered to the Secretary of State for filing a ~~[statement of dissociation.]~~ certificate of withdrawal.

(e) A restated certificate of limited partnership must be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate must be signed in a manner that satisfies that paragraph.

(f) A ~~[statement of termination]~~ certificate of cancellation must be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to subsection 3 or 4 of section 100 of this act to wind up the dissolved limited partnership's activities.

(g) Articles of conversion must be signed by each general partner listed in the certificate of limited partnership.

(h) Articles of merger must be signed as provided in chapter 92A of NRS.

(i) Any other record delivered on behalf of a limited partnership to the Secretary of State for filing must be signed by at least one general partner listed in the certificate.

(j) A statement by a person pursuant to paragraph (d) of subsection 1 of section 91 of this act stating that the person has ~~[dissociated]~~ withdrawn as a general partner must be signed by that person.

(k) A statement of withdrawal by a person pursuant to section 69 of this act must be signed by that person.

(l) A record delivered on behalf of a foreign limited partnership to the Secretary of State for filing must be signed by at least one general partner of the foreign limited partnership.

(m) Any other record delivered on behalf of any person to the Secretary of State for filing must be signed by that person.

2. Any person may sign by an attorney-in-fact any record to be filed pursuant to this chapter.

Sec. 51. *1. If a person required by this chapter to sign a record or deliver a record to the Secretary of State for filing does not do so, any other person that is aggrieved may petition the district court to order:*

(a) The person to sign the record;

(b) Deliver the record to the Secretary of State for filing; or

(c) The Secretary of State to file the record unsigned.

2. If the person aggrieved under subsection 1 is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection 1 may seek the remedies provided in subsection 1 in the same action in combination or in the alternative.

3. A record filed unsigned pursuant to this section is effective without being signed.

Sec. 52. *1. Each record filed with the Secretary of State pursuant to this chapter must be on or accompanied by a form prescribed by the Secretary of State.*

2. The Secretary of State may refuse to file a record which does not comply with subsection 1 or which does not contain all of the information required by statute for filing the record.

3. If the provisions of the form prescribed by the Secretary of State conflict with the provisions of any record that is submitted for filing with the form:

(a) The provisions of the form control for all purposes with respect to the information that is required by statute to appear in the record in order for the record to be filed; and

(b) Unless otherwise provided in the record, the provisions of the record control in every other situation.

4. The Secretary of State may by regulation provide for the electronic filing of records with the Office of the Secretary of State.

Sec. 53. *A general partner of a limited partnership may authorize the Secretary of State in writing to replace any page of a record submitted for filing on an expedited basis, before the actual filing, and to accept the page as if it were part of the original record. The signed authorization of the general partner to the Secretary of State permits, but does not require, the Secretary of State to alter the original record as requested.*

Sec. 54. *No record which is written in a language other than English may be filed or submitted for filing in the Office of the Secretary of State pursuant to the provisions of this chapter unless it is accompanied by a verified translation of that record into the English language.*

Sec. 55. *1. A limited partnership or foreign limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership or foreign limited partnership if the record contains*

false or erroneous information or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership or foreign limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership or foreign limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the false or erroneous information or the defect;

(4) Sets forth the false or erroneous information or the defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership or foreign limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction must not state a delayed effective date and is effective on the effective date of the record it corrects, except that the certificate is effective when filed:

(a) For the purposes of subsections 3 and 4 of section 31 of this act; and

(b) As to persons relying on the uncorrected record and adversely affected by the correction.

Sec. 56. *The Secretary of State may microfilm or image any record which is filed in his office by or relating to a limited partnership pursuant to this chapter and may return the original record to the filer.*

Sec. 57. *1. If a record delivered to the Secretary of State for filing under this chapter and filed by the Secretary of State contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from:*

(a) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and

(b) A general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment under section 48 of this act, file a petition pursuant to section 51 of this act or deliver to the Secretary of State for filing a certificate of correction pursuant to section 55 of this act.

2. Signing a record authorized or required to be filed under this chapter constitutes an affirmation under the penalties of perjury that the facts stated in the record are true.

Sec. 58. *1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited*

partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The name and street address of its lawfully designated resident agent in this State; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ *Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.*

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of ~~[$175.]~~ $125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by section 60 of this act.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of section 48 of this act and may not be substituted for filings submitted pursuant to section 48 of this act.

Sec. 59. *1. At the time of submitting any list required pursuant to section 58 of this act, a limited partnership that meets the criteria set forth in subsection 2 must submit:*

(a) The statement required pursuant to subsection 3, accompanied by a declaration under penalty of perjury attesting that the statement does not contain any material misrepresentation of fact; and

(b) A fee of $100,000, to be distributed in the manner provided pursuant to subsection 4.

2. A limited partnership must submit a statement pursuant to this section if the limited partnership, including its parent and all subsidiaries:

(a) Holds 25 percent or more of the share of the market within this State for any product sold or distributed by the limited partnership within this State; and

(b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the limited partnership, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:

(1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which concern similar activities prohibited by a substantially similar law of another jurisdiction; and

(2) Which resulted in the limited partnership being fined or otherwise penalized or which resulted in the limited partnership being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A limited partnership that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:

(a) The jurisdiction in which the investigation was commenced.

(b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.

(c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.

(d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the limited partnership and whether the limited partnership was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General's Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060.

Sec. 60. *1. If a limited partnership has filed the list in compliance with section 58 of this act and has paid the appropriate fee for the filing, the cancelled check or other proof of payment received by the limited partnership constitutes a certificate authorizing it to transact its business within this State until the anniversary date of the filing of its certificate of limited partnership in the next succeeding calendar year.*

2. Each limited partnership which is required to make a filing and pay the fee prescribed in sections 58 and 59 of this act and which refuses or neglects to do so within the time provided is in default.

3. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a limited partnership which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the limited partnership to be in default. If, after the limited partnership is deemed to be in default, the Administrator notifies the Secretary of State that the limited partnership has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the limited partnership if the limited partnership complies with the requirements for reinstatement as provided in this section and section 62 of this act.

4. For default there must be added to the amount of the fee a penalty of $75, and unless the filings are made and the fee and penalty are paid on or before the first day of the first anniversary of the month following the month in which filing was required, the defaulting limited partnership, by reason of its default, forfeits its right to transact any business within this State.

Sec. 61. *1. The Secretary of State shall notify, by providing written notice to its resident agent, each defaulting limited partnership. The written notice:*

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the resident agent, may be provided electronically.

2. Immediately after the first day of the first anniversary of the month following the month in which filing was required, the certificate of the limited partnership is revoked.

3. The Secretary of State shall compile a complete list containing the names of all limited partnerships whose right to transact business has been forfeited.

4. The Secretary of State shall notify, by providing written notice to its resident agent, each limited partnership specified in subsection 3 of the revocation of its certificate. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the resident agent, may be provided electronically.

5. In case of revocation of the certificate and of the forfeiture of the right to transact business thereunder, all the property and assets of the defaulting

domestic limited partnership are held in trust by the general partners, and the same proceedings may be had with respect thereto as for the judicial dissolution of a limited partnership. Any person interested may institute proceedings at any time after a forfeiture has been declared, but, if the Secretary of State reinstates the limited partnership, the proceedings must at once be dismissed and all property restored to the general partners.

Sec. 62. *1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate any limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and restore to the limited partnership its right to carry on business in this State, and to exercise its privileges and immunities if it:*

(a) Files with the Secretary of State:

(1) The list required pursuant to section 58 of this act;

(2) The statement required by section 59 of this act, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in sections 58 and 60 of this act for each year or portion thereof during which the certificate has been revoked;

(2) The fee set forth in section 59 of this act, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the limited partnership, he shall issue to the limited partnership a certificate of reinstatement if the limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to section 63 of this act.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation occurred only by reason of failure to pay the fees and penalties.

4. If a limited partnership's certificate has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 years, the certificate must not be reinstated.

5. If a limited partnership's certificate is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the limited partnership's status as a limited partnership continues as if the revocation had never occurred.

Sec. 63. *The Secretary of State, for services relating to his official duties and the records of his office, shall charge and collect the following fees:*

1. For filing a certificate of limited partnership, or for registering a foreign limited partnership, $75.

2. For filing a certificate of registration of limited-liability limited partnership, or for registering a foreign registered limited-liability limited partnership, $100.

3. For filing a certificate of amendment of limited partnership or restated certificate of limited partnership, $175.

4. For filing a certificate of a change of location of the records office of a limited partnership or the office of its resident agent, or a designation of a new resident agent, $60.

5. For certifying a copy of a certificate of limited partnership, an amendment to the certificate, or a certificate as amended, $30 per certification.

6. For certifying an authorized printed copy of the limited partnership law, $30.

7. For reserving a limited partnership name, or for signing, filing or certifying any other record, $25.

8. For copies provided by the Office of the Secretary of State, $2 per page.

9. For filing a ~~[statement of termination]~~ certificate of cancellation of a limited partnership or a certificate of cancellation of the registration of a foreign limited partnership, $75.

➥ *Except as otherwise provided in this section, the fees set forth in NRS 78.785 apply to this chapter.*

Sec. 64. *A person becomes a limited partner:*

1. As provided in the partnership agreement;

2. As the result of a conversion or merger under chapter 92A of NRS; or

3. With the consent of all the partners.

Sec. 65. *A limited partner does not have the right or the power as a limited partner to act for or bind the limited partnership.*

Sec. 66. *An obligation of a limited partnership, whether arising in contract, tort or otherwise, is not the obligation of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership.*

Sec. 67. *1. On 10 days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office. The limited partner need not have any particular purpose for seeking the information.*

2. During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable if:

(a) The limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;

(b) The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(c) The information sought is directly connected to the limited partner's purpose.

3. Within 10 days after receiving a demand pursuant to subsection 2, the limited partnership in a record shall inform the limited partner that made the demand:

(a) What information the limited partnership will provide in response to the demand;

(b) When and where the limited partnership will provide the information; and

(c) If the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.

4. Subject to subsection 6, a person ~~[dissociated]~~ withdrawn as a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office if:

(a) The information pertains to the period during which the person was a limited partner;

(b) The person seeks the information in good faith; and

(c) The person meets the requirements of subsection 2.

5. The limited partnership shall respond to a demand made pursuant to subsection 4 in the same manner as provided in subsection 3.

6. If a limited partner dies, section 97 of this act applies.

7. The limited partnership may impose reasonable restrictions on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

8. A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

9. Whenever this chapter or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information material to the limited partner's decision that the limited partnership knows.

10. A limited partner or person ~~[dissociated]~~ withdrawn as a limited partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection 7 or by the partnership agreement applies both to the attorney or other agent and to the limited partner or person ~~[dissociated]~~ withdrawn as a limited partner.

11. The rights stated in this section do not extend to a person as transferee, but may be exercised by the legal representative of a natural person under legal disability who is a limited partner or person ~~[dissociated]~~ withdrawn as a limited partner.

Sec. 68. *1. A limited partner does not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.*

2. A limited partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

3. A limited partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

Sec. 69. *1. Except as otherwise provided in subsection 2, a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise or exercising any rights of or appropriate to a limited partner if, on ascertaining the mistake, the person:*

(a) Causes an appropriate certificate of limited partnership, amendment or certificate of correction to be signed and delivered to the Secretary of State for filing; or

(b) Withdraws from future participation as an owner in the enterprise by signing and delivering to the Secretary of State for filing a statement of withdrawal under this section.

2. A person that makes an investment described in subsection 1 is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the Secretary of State files a statement of withdrawal, certificate of limited partnership, amendment or certificate of correction to show that the person is not a general partner.

3. If a person makes a diligent effort in good faith to comply with paragraph (a) of subsection 1 and is unable to cause the appropriate certificate of limited partnership, amendment or certificate of correction to be signed and delivered to the Secretary of State for filing, the person has the right to withdraw from the enterprise pursuant to paragraph (b) of subsection 1 even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

Sec. 70. *A person becomes a general partner:*

1. As provided in the partnership agreement;

2. Under paragraph (b) of subsection 3 of section 98 of this act following the ~~[dissociation]~~ withdrawal of a limited partnership's last general partner;

3. As the result of a conversion or merger under chapter 92A of NRS; or

4. With the consent of all the partners.

Sec. 71. *1. Each general partner is an agent of the limited partnership for the purposes of its activities. An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in*

the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification or had notice under subsection 4 of section 31 of this act that the general partner lacked authority.

2. An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership only if the act was actually authorized by all the other partners.

Sec. 72. *1. A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.*

2. If, in the course of the limited partnership's activities or while acting with authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership is liable for the loss.

Sec. 73. *1. Except as otherwise provided in subsections 2 and 3, all general partners are liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.*

2. A person that becomes a general partner of an existing limited partnership is not personally liable for an obligation of a limited partnership incurred before the person became a general partner.

3. An obligation of a limited partnership incurred while the limited partnership is a registered limited-liability limited partnership, whether arising in contract, tort or otherwise, is solely the obligation of the limited partnership. A general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a general partner. This subsection applies despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a registered limited-liability limited partnership under paragraph (b) of subsection 2 of section 75 of this act.

Sec. 74. *1. To the extent not inconsistent with section 73 of this act, a general partner may be joined in an action against the limited partnership or named in a separate action.*

2. A judgment against a limited partnership is not by itself a judgment against a general partner. A judgment against a limited partnership may not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

3. A judgment creditor of a general partner may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the partner is personally liable for the claim under section 73 of this act and:

(a) A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(b) The limited partnership is a debtor in bankruptcy;

(c) The general partner has agreed that the creditor need not exhaust limited partnership assets;

(d) A court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(e) Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

Sec. 75. *1. Each general partner has equal rights in the management and conduct of the limited partnership's activities. Except as expressly provided in this chapter, any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.*

2. The consent of each partner is necessary to:

(a) Amend the partnership agreement;

(b) Register a limited partnership as a registered limited-liability limited partnership pursuant to section 125 of this act or to withdraw its registration as a registered limited-liability limited partnership; and

(c) Sell, lease, exchange or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the goodwill, other than in the usual and regular course of the limited partnership's activities.

3. A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.

4. A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.

5. A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under subsection 3 or 4 constitutes a loan to the limited partnership which accrues interest from the date of the payment or advance.

6. A general partner is not entitled to remuneration for services performed for the partnership.

Sec. 76. *1. A general partner, without having any particular purpose for seeking the information, may inspect and copy during regular business hours:*

(a) In the limited partnership's designated office, required information; and

(b) At a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.

2. Each general partner and the limited partnership shall furnish to a general partner:

(a) Without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter; and

(b) On demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

3. Subject to subsection 5, on 10 days' demand made in a record received by the limited partnership, a person ~~[dissociated]~~ withdrawn as a general partner may have access to the information and records described in subsection 1 at the location specified in subsection 1 if:

(a) The information or record pertains to the period during which the person was a general partner;

(b) The person seeks the information or record in good faith; and

(c) The person satisfies the requirements imposed on a limited partner by subsection 2 of section 67 of this act.

4. The limited partnership shall respond to a demand made pursuant to subsection 3 in the same manner as provided in subsection 3 of section 67 of this act.

5. If a general partner dies, section 97 of this act applies.

6. The limited partnership may impose reasonable restrictions on the use of information under this section. In any dispute concerning the reasonableness

of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

7. A limited partnership may charge a person ~~[dissociated]~~ withdrawn as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

8. A general partner or person ~~[dissociated]~~ withdrawn as a general partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection 6 or by the partnership agreement applies both to the attorney or other agent and to the general partner or person ~~[dissociated]~~ withdrawn as a general partner.

9. The rights under this section do not extend to a person as transferee, but the rights under subsection 3 of a person ~~[dissociated]~~ withdrawn as a

general partner may be exercised by the legal representative of a natural person ~~[who dissociated]~~ withdrawn as a general partner under paragraph (b) or (c) of subsection 7 of section 89 of this act.

Sec. 77. *1. The only fiduciary duties that a general partner has to the limited partnership and the other partners are the duties of loyalty and care under subsections 2 and 3.*

2. A general partner's duty of loyalty to the limited partnership and the other partners is limited to the following:

(a) To account to the limited partnership and hold as trustee for it any property, profit or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;

(b) To refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and

(c) To refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.

3. A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct or a knowing violation of law.

4. A general partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

5. A general partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.

Sec. 78. *A contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property, and contracts for services to be performed.*

Sec. 79. *1. A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership is not excused by the partner's death, disability or other inability to perform personally.*

2. If a partner does not make a promised nonmonetary contribution, the partner is obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution which has not been made.

3. The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all partners. A creditor of a limited partnership which extends credit or otherwise acts in reliance on an

obligation described in subsection 1, without notice of any compromise under this subsection, may enforce the original obligation.

Sec. 80. *A distribution by a limited partnership must be shared among the partners on the basis of the value, as stated in the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.*

Sec. 81. *A partner does not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution.*

Sec. 82. *A person does not have a right to receive a distribution on account of ~~[dissociation.]~~ withdrawal.*

Sec. 83. *A partner does not have a right to demand or receive any distribution from a limited partnership in any form other than cash. Subject to subsection 2 of section 106 of this act, a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions.*

Sec. 84. *When a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution is subject to offset for any amount owed to the limited partnership by the partner or ~~[dissociated]~~ withdrawn partner on whose account the distribution is made.*

Sec. 85. *1. A limited partnership may not make a distribution in violation of the partnership agreement.*

2. A limited partnership may not make a distribution if after the distribution:

(a) The limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or

(b) The limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up and termination of partners whose preferential rights are superior to those of persons receiving the distribution.

3. A limited partnership may base a determination that a distribution is not prohibited under subsection 2 on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

4. Except as otherwise provided in subsection 7, the effect of a distribution under subsection 2 is measured:

(a) In the case of distribution by purchase, redemption or other acquisition of a transferable interest in the limited partnership, as of the date

money or other property is transferred or debt incurred by the limited partnership; and

(b) In all other cases, as of the date:

(1) The distribution is authorized, if the payment occurs within 120 days after that date; or

(2) The payment is made, if payment occurs more than 120 days after the distribution is authorized.

5. A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors.

6. A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of subsection 2 if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this section.

7. If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

Sec. 86. *1. A general partner that consents to a distribution made in violation of section 85 of this act is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the general partner failed to comply with section 77 of this act.*

2. A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of section 85 of this act is personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under section 85 of this act.

3. A general partner against which an action is commenced under subsection 1 may:

(a) Implead in the action any other person that is liable under subsection 1 and compel contribution from the person; and

(b) Implead in the action any person that received a distribution in violation of subsection 2 and compel contribution from the person in the amount the person received in violation of subsection 2.

4. An action under this section is barred if it is not commenced within 2 years after the distribution.

Sec. 87. *1. A person does not have a right to ~~[dissociate]~~ withdraw as a limited partner before the termination of the limited partnership.*

2. A person is ~~[dissociated]~~ withdrawn from a limited partnership as a limited partner upon the occurrence of any of the following events:

(a) The limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person;

(b) An event agreed to in the partnership agreement as causing the person's ~~[dissociation]~~ withdrawal as a limited partner;

(c) The person's expulsion as a limited partner pursuant to the partnership agreement;

(d) The person's expulsion as a limited partner by the unanimous consent of the other partners if:

(1) It is unlawful to carry on the limited partnership's activities with the person as a limited partner;

(2) There has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(3) The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(4) The person is a limited-liability company or partnership that has been dissolved and whose business is being wound up;

(e) On application by the limited partnership, the person's expulsion as a limited partner by judicial order because:

(1) The person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;

(2) The person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good faith and fair dealing under subsection 2 of section 68 of this act; or

(3) The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities with the person as limited partner;

(f) In the case of a person who is a natural person, the person's death;

(g) In the case of a person that is a trust or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;

(h) In the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;

(i) Termination of a limited partner that is not a natural person, partnership, limited-liability company, corporation, trust or estate; or

(j) The limited partnership's participation in a conversion or merger if the limited partnership:

(1) Is not the converted or surviving entity; or

(2) Is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a limited partner.

Sec. 88. *1. Upon a person's ~~[dissociation]~~ withdrawal as a limited partner:*

(a) Subject to section 97 of this act, the person does not have further rights as a limited partner;

(b) The person's obligation of good faith and fair dealing as a limited partner under subsection 2 of section 68 of this act continues only as to matters arising and events occurring before the ~~[dissociation;]~~ withdrawal; and

(c) Subject to section 97 of this act and the provisions of chapter 92A of NRS, any transferable interest owned by the person in the person's capacity as a limited partner immediately before ~~[dissociation]~~ withdrawal is owned by the person as a mere transferee.

2. A person's ~~[dissociation]~~ withdrawal as a limited partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a limited partner.

Sec. 89. *A person is ~~[dissociated]~~ withdrawn from a limited partnership as a general partner upon the occurrence of any of the following events:*

1. The limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person;

2. An event agreed to in the partnership agreement as causing the person's ~~[dissociation]~~ withdrawal as a general partner;

3. The person's expulsion as a general partner pursuant to the partnership agreement;

4. The person's expulsion as a general partner by the unanimous consent of the other partners if:

(a) It is unlawful to carry on the limited partnership's activities with the person as a general partner;

(b) There has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(c) The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(d) The person is a limited-liability company or partnership that has been dissolved and whose business is being wound up;

5. On application by the limited partnership, the person's expulsion as a general partner by judicial determination because:

(a) The person engaged in wrongful conduct that adversely and materially affected the limited partnership activities;

(b) The person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under section 77 of this act; or

(c) The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;

6. The person's:

(a) Becoming a debtor in bankruptcy;

(b) Execution of an assignment for the benefit of creditors;

(c) Seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of the person or of all or substantially all of the person's property; or

(d) Failure, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

7. In the case of a person who is a natural person:

(a) The person's death;

(b) The appointment of a guardian or general conservator for the person; or

(c) A judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement;

8. In the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;

9. In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;

10. Termination of a general partner that is not a natural person, partnership, limited-liability company, corporation, trust or estate; or

11. The limited partnership's participation in a conversion or merger under chapter 92A of NRS, if the limited partnership:

(a) Is not the converted or surviving entity; or

(b) Is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner.

Sec. 90. *1. A person has the power to ~~[dissociate]~~ withdraw as a general partner at any time, rightfully or wrongfully, by express will pursuant to subsection 1 of section 89 of this act.*

2. A person's ~~[dissociation]~~ withdrawal as a general partner is wrongful only if:

(a) It is in breach of an express provision of the partnership agreement; or

(b) It occurs before the termination of the limited partnership, and:

(1) The person withdraws as a general partner by express will;

(2) The person is expelled as a general partner by judicial determination under subsection 5 of section 89 of this act;

(3) The person is ~~[dissociated]~~ withdrawn as a general partner by becoming a debtor in bankruptcy; or

(4) In the case of a person that is not a natural person, a trust other than a business trust or an estate, the person is expelled or otherwise ~~[dissociated]~~ withdrawn as a general partner because it willfully dissolved or terminated.

3. A person that wrongfully ~~[dissociates]~~ withdraws as a general partner is liable to the limited partnership and, subject to section 130 of this act, to the other partners for damages caused by the ~~[dissociation.]~~ withdrawal. The liability is in addition to any other obligation of the general partner to the limited partnership or to the other partners.

Sec. 91. *1. Upon a person's ~~[dissociation]~~ withdrawal as a general partner:*

(a) The person's right to participate as a general partner in the management and conduct of the partnership's activities terminates;

(b) The person's duty of loyalty as a general partner under paragraph (c) of subsection 2 of section 77 of this act terminates;

(c) The person's duty of loyalty as a general partner under paragraphs (a) and (b) of subsection 2 of section 77 of this act and duty of care under subsection 3 of section 77 of this act continue only with regard to matters arising and events occurring before the person's ~~[dissociation]~~ withdrawal as a general partner;

(d) The person may sign and deliver to the Secretary of State for filing a ~~[statement of dissociation]~~ certificate of withdrawal pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has ~~[dissociated;]~~ withdrawn; and

(e) Subject to section 97 of this act and the provisions of chapter 92A of NRS, any transferable interest owned by the person immediately before ~~[dissociation]~~ withdrawal in the person's capacity as a general partner is owned by the person as a mere transferee.

2. A person's ~~[dissociation]~~ withdrawal as a general partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a general partner.

Sec. 92. *1. After a person is ~~[dissociated]~~ withdrawn as a general partner and before the limited partnership is dissolved, converted under chapter 92A of NRS or merged out of existence under chapter 92A of NRS, the limited partnership is bound by an act of the person only if:*

(a) The act would have bound the limited partnership under section 71 of this act before the ~~[dissociation;]~~ withdrawal; and

(b) At the time the other party enters into the transaction:

(1) Less than 2 years has passed since the ~~[dissociation;]~~ withdrawal; and

(2) The other party does not have notice of the ~~[dissociation]~~ withdrawal and reasonably believes that the person is a general partner.

2. If a limited partnership is bound under subsection 1, the person ~~[dissociated]~~ withdrawn as a general partner which caused the limited partnership to be bound is liable:

(a) To the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under subsection 1; and

(b) If a general partner or another person ~~[dissociated]~~ withdrawn as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

Sec. 93. *1. A person's ~~[dissociation]~~ withdrawal as a general partner does not of itself discharge the person's liability as a general partner for an obligation of the limited partnership incurred before ~~[dissociation.]~~ withdrawal. Except as otherwise provided in subsections 2 and 3, the person is not liable for a limited partnership's obligation incurred after ~~[dissociation.]~~ withdrawal.*

2. A person whose ~~[dissociation]~~ withdrawal as a general partner resulted in a dissolution and winding up of the limited partnership's activities is liable to the same extent as a general partner under section 73 of this act on an obligation incurred by the limited partnership under section 101 of this act.

3. A person that has ~~[dissociated]~~ withdrawn as a general partner but whose ~~[dissociation]~~ withdrawal did not result in a dissolution and winding up of the limited partnership's activities is liable on a transaction entered into by the limited partnership after the ~~[dissociation]~~ withdrawal only if:

(a) A general partner would be liable on the transaction; and

(b) At the time the other party enters into the transaction:

(1) Less than 2 years has passed since the ~~[dissociation;]~~ withdrawal; and

(2) The other party does not have notice of the ~~[dissociation]~~ withdrawal and reasonably believes that the person is a general partner.

4. By agreement with a creditor of a limited partnership and the limited partnership, a person ~~[dissociated]~~ withdrawn as a general partner may be released from liability for an obligation of the limited partnership.

5. A person ~~[dissociated]~~ withdrawn as a general partner is released from liability for an obligation of the limited partnership if the limited partnership's creditor, with notice of the person's ~~[dissociation]~~ withdrawal as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

Sec. 94. *The only interest of a partner which is transferable is the partner's transferable interest. A transferable interest is personal property.*

Sec. 95. *1. A transfer, in whole or in part, of a partner's transferable interest:*

(a) Is permissible;

(b) Does not by itself cause the partner's ~~[dissociation]~~ withdrawal or a dissolution and winding up of the limited partnership's activities; and

(c) Does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection 3, or to inspect or copy the required information or the limited partnership's other records.

2. A transferee has a right to receive, in accordance with the transfer:

(a) Distributions to which the transferor would otherwise be entitled; and

(b) Upon the dissolution and winding up of the limited partnership's activities the net amount otherwise distributable to the transferor.

3. In a dissolution and winding up, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.

4. Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.

5. A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.

6. A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

7. A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under sections 79 and 86 of this act. However, the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.

Sec. 96. *1. On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.*

2. A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

3. At any time before foreclosure, an interest charged may be redeemed:

(a) By the judgment debtor;

(b) With property other than limited partnership property, by one or more of the other partners; or

(c) With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

4. This chapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

5. This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

Sec. 97. *If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in section 95 of this act and, for the purposes of settling the estate, may exercise the rights of a current limited partner under section 67 of this act.*

Sec. 98. *Except as otherwise provided in section 99 of this act, a limited partnership is dissolved, and its activities must be wound up, only upon the occurrence of any of the following:*

1. The happening of an event specified in the partnership agreement;

2. The consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;

3. After the ~~[dissociation]~~ withdrawal of a person as a general partner:

(a) If the limited partnership has at least one remaining general partner, the consent to dissolve the limited partnership given within 90 days after the ~~[dissociation]~~ withdrawal by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or

(b) If the limited partnership does not have a remaining general partner, the passage of 90 days after the ~~[dissociation,]~~ withdrawal, unless before the end of the period:

(1) Consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(2) At least one person is admitted as a general partner in accordance with the consent; or

4. The passage of 90 days after the ~~[dissociation]~~ withdrawal of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner.

Sec. 99. *On application by a partner the district court may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.*

Sec. 100. *1. A limited partnership continues after dissolution only for the purpose of winding up its activities.*

2. In winding up its activities, the limited partnership:

(a) May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a ~~[statement of termination]~~ certificate of cancellation as provided in section 49 of this act and perform other necessary acts; and

(b) Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities and marshal and distribute the assets of the partnership.

3. If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection:

(a) Has the powers of a general partner under section 101 of this act; and

(b) Shall promptly amend the certificate of limited partnership to state:

(1) That the limited partnership does not have a general partner;

(2) The name of the person that has been appointed to wind up the limited partnership; and

(3) The street and mailing address of the person.

4. On the application of any partner, the district court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:

(a) A limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection 3; or

(b) The applicant establishes other good cause.

Sec. 101. *1. A limited partnership is bound by a general partner's act after dissolution which:*

(a) Is appropriate for winding up the limited partnership's activities; or

(b) Would have bound the limited partnership under section 71 of this act before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.

2. A person ~~[dissociated]~~ withdrawn as a general partner binds a limited partnership through an act occurring after dissolution if:

(a) At the time the other party enters into the transaction:

(1) Less than 2 years has passed since the ~~[dissociation;]~~ withdrawal; and

(2) The other party does not have notice of the ~~[dissociation]~~ withdrawal and reasonably believes that the person is a general partner; and

(b) The act:

(1) Is appropriate for winding up the limited partnership's activities; or

(2) Would have bound the limited partnership under section 71 of this act before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.

Sec. 102. *1. If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under subsection 1 of section 101 of this act by an act that is not appropriate for winding up the partnership's activities, the general partner is liable:*

(a) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(b) If another general partner or a person ~~[dissociated]~~ withdrawn as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

2. If a person ~~[dissociated]~~ withdrawn as a general partner causes a limited partnership to incur an obligation under subsection 2 of section 101 of this act, the person is liable:

(a) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(b) If a general partner or another person ~~[dissociated]~~ withdrawn as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

Sec. 103. *1. A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection 2.*

2. A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice must:

(a) Specify the information required to be included in a claim;

(b) Provide a mailing address to which the claim is to be sent;

(c) State the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant;

(d) State that the claim will be barred if not received by the deadline; and

(e) Unless the limited partnership has been throughout its existence a registered limited-liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person ~~[dissociated]~~ withdrawn as a general partner which is based on section 73 of this act.

3. A claim against a dissolved limited partnership is barred if the requirements of subsection 2 are met and:

(a) The claim is not received by the specified deadline; or

(b) In the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within 90 days after the receipt of the notice of the rejection.

4. This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

Sec. 104. *1. A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.*

2. The notice must:

(a) Be published at least once in a newspaper of general circulation in the county in which the dissolved limited partnership's principal office is located or, if it has none in this State, in the county in which the limited partnership's designated office is or was last located;

(b) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;

(c) State that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within 5 years after publication of the notice; and

(d) Unless the limited partnership has been throughout its existence a registered limited-liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person ~~[dissociated]~~ withdrawn as a general partner which is based on section 73 of this act.

3. If a dissolved limited partnership publishes a notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership within 5 years after the publication date of the notice:

(a) A claimant that did not receive notice in a record under section 103 of this act;

(b) A claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim not barred under this section may be enforced:

(a) Against the dissolved limited partnership, to the extent of its undistributed assets;

(b) If the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or

(c) Against any person liable on the claim under section 73 of this act.

Sec. 105. *If a claim against a dissolved limited partnership is barred under section 103 or 104 of this act, any corresponding claim under section 73 of this act is also barred.*

Sec. 106. *1. In winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section, must be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.*

2. Any surplus remaining after the limited partnership complies with subsection 1 must be paid in cash as a distribution.

3. If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection 1, with respect to each unsatisfied obligation incurred when the limited partnership was not a limited-liability limited partnership, the following rules apply:

(a) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under section 93 of this act shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(b) If a person does not contribute the full amount required under paragraph (a) with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph (a) on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.

(c) If a person does not make the additional contribution required by paragraph (b), further additional contributions are determined and due in the same manner as provided in that paragraph.

4. A person that makes an additional contribution under paragraph (b) or (c) of subsection 3 may recover from any person whose failure to contribute under paragraph (a) or (b) of subsection 3 necessitated the additional contribution. A person may not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection may not exceed the amount the person failed to contribute.

5. The estate of a deceased natural person is liable for the person's obligations under this section.

6. An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subsection 3.

Sec. 107. *Subject to the constitution of this State:*

1. The laws of the state or jurisdiction under which a foreign limited partnership is organized govern:

(a) Relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership; and

(b) The liability of partners as partners for an obligation of the foreign limited partnership; and

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 108. *Before transacting business in this State, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed by a general partner, a signed certificate of acceptance of a resident agent and a certificate of existence or another record of similar import signed by the governmental official having custody of the foreign limited partnership's publicly filed records in the state or other jurisdiction under whose law the foreign limited partnership is organized. The application for registration must set forth:*

1. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;

2. The state or jurisdiction under whose law the foreign limited partnership is organized and the date of its organization;

3. The name and street address of the resident agent whom the foreign limited partnership elects to appoint;

4. A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the resident agent's authority has been revoked or if the resident agent cannot be found or served with the exercise of reasonable diligence;

5. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

6. The name and business address of each general partner; and

7. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this State is cancelled or withdrawn.

Sec. 109. *1. If the Secretary of State finds that an application for registration filed by a foreign limited partnership conforms to law and all requisite fees have been paid, he shall issue a certificate of registration to transact business in this State and mail it to the person who filed the application or his representative.*

2. A certificate of registration does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this State.

Sec. 110. *Except as otherwise provided in section 129 of this act, a foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership.*

Sec. 111. *If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the Office of the Secretary of State a certificate, signed and sworn to by a general partner, correcting such statement.*

Sec. 112. *1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:*

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The name and street address of its lawfully designated resident agent in this State; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of

sections 112 to 119, inclusive, of this act and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of sections 112 to 119, inclusive, of this act.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date must be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 113. *1. At the time of submitting any list required pursuant to section 112 of this act, a foreign limited partnership that meets the criteria set forth in subsection 2 must submit:*

(a) The statement required pursuant to subsection 3, accompanied by a declaration under penalty of perjury attesting that the statement does not contain any material misrepresentation of fact; and

(b) A fee of $100,000, to be distributed in the manner provided pursuant to subsection 4.

2. A foreign limited partnership must submit a statement pursuant to this section if the foreign limited partnership, including its parent and all subsidiaries:

(a) Holds 25 percent or more of the share of the market within this State for any product sold or distributed by the foreign limited partnership within this State; and

(b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the foreign limited partnership, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:

(1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which concern similar activities prohibited by a substantially similar law of another jurisdiction; and

(2) Which resulted in the foreign limited partnership being fined or otherwise penalized or which resulted in the foreign limited partnership being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A foreign limited partnership that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:

(a) The jurisdiction in which the investigation was commenced.

(b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.

(c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.

(d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the foreign limited partnership and whether the foreign limited partnership was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General's Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060.

Sec. 114. *If a foreign limited partnership has filed the initial or annual list in compliance with section 112 of this act and has paid the appropriate fee for the filing, the cancelled check or other proof of payment received by the foreign limited partnership constitutes a certificate authorizing it to transact its business within this State until the last day of the month in which the anniversary of its qualification to transact business occurs in the next succeeding calendar year.*

Sec. 115. *1. Each list required to be filed under the provisions of sections 112 to 119, inclusive, of this act must, after the name of each managing partner listed thereon, set forth the address, either residence or business, of each managing partner.*

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of sections 112 to 119, inclusive, of this act relating to failure to file the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 116. *1. Each foreign limited partnership which is required to make a filing and pay the fee prescribed in sections 112 to 119, inclusive, of this act and which refuses or neglects to do so within the time provided is in default.*

2. For default there must be added to the amount of the fee a penalty of $75 and unless the filing is made and the fee and penalty are paid on or before the last day of the month in which the anniversary date of the foreign limited partnership occurs, the defaulting foreign limited partnership by reason of its default forfeits its right to transact any business within this State. The fee and penalty must be collected as provided in this chapter.

Sec. 117. *1. The Secretary of State shall notify, by providing written notice to its resident agent, each foreign limited partnership deemed in default pursuant to section 116 of this act. The written notice:*

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the resident agent, may be provided electronically.

2. Immediately after the last day of the month in which the anniversary date of the filing of the certificate of limited partnership occurs, the Secretary of State shall compile a complete list containing the names of all foreign limited partnerships whose right to transact business has been forfeited.

3. The Secretary of State shall notify, by providing written notice to its resident agent, each foreign limited partnership specified in subsection 2 of the forfeiture of its right to transact business. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the resident agent, may be provided electronically.

Sec. 118. *1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:*

(a) Files with the Secretary of State:

(1) The list required by section 112 of this act;

(2) The statement required by section 113 of this act, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in sections 112 and 116 of this act for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in section 113 of this act, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to section 63 of this act.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. If the right of a foreign limited partnership to transact business in this State is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the foreign limited partnership's status as a foreign limited partnership continues as if the revocation had never occurred.

Sec. 119. *1. Except as otherwise provided in subsection 2, if a foreign limited partnership applies to reinstate its certificate of registration and its name has been legally reserved or acquired by another artificial person formed, organized, registered or qualified pursuant to the provisions of this title whose name is on file with the Office of the Secretary of State or reserved in the Office of the Secretary of State pursuant to the provisions of this title, the foreign limited partnership must in its application for reinstatement submit in writing to the Secretary of State some other name under which it desires its existence to be reinstated. If that name is distinguishable from all other names reserved or otherwise on file, the Secretary of State shall reinstate the foreign limited partnership under that new name.*

2. If the applying foreign limited partnership submits the written, acknowledged consent of the artificial person having a name, or the person who has reserved a name, which is not distinguishable from the old name of the applying foreign limited partnership or a new name it has submitted, it may be reinstated under that name.

3. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

4. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 120. *A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a general partner. The certificate must set forth:*

1. The name of the foreign limited partnership;

2. The reason for filing the certificate of cancellation;

3. The effective date of the cancellation if other than the date of the filing of the certificate, which must not be more than 90 days after the certificate is filed; and

4. Any other information deemed necessary by the general partners of the partnership.

➥ *A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this State.*

Sec. 121. *1. A foreign limited partnership transacting business in this State may not maintain any action, suit or proceeding in any court of this State until it has registered in this State.*

2. The failure of a foreign limited partnership to register in this State does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

3. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

4. A foreign limited partnership, by transacting business in this State without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

Sec. 122. *1. For the purposes of sections 107 to 124, inclusive, of this act, the following activities do not constitute transacting business in this State:*

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS unless he:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction

over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 123. *1. For the purposes of section 122 of this act, a solicitation of a deposit is made in this State, whether or not either party is present in this State, if the solicitation:*

(a) Originates in this State; or

(b) Is directed by the solicitor to a destination in this State and received where it is directed, or at a post office in this State if the solicitation is mailed.

2. A solicitation of a deposit is accepted in this State if acceptance:

(a) Is communicated to the solicitor in this State; and

(b) Has not previously been communicated to the solicitor, orally or in writing, outside this State.

➥ *Acceptance is communicated to the solicitor in this State, whether or not either party is present in this State, if the depositor directs it to the solicitor reasonably believing the solicitor to be in this State and it is received where it is directed, or at any post office in this State if the acceptance is mailed.*

3. A solicitation made in a newspaper or other publication of general, regular and paid circulation is not made in this State if the publication:

(a) Is not published in this State; or

(b) Is published in this State but has had more than two-thirds of its circulation outside this State during the 12 months preceding the solicitation.

➥ *If a publication is published in editions, each edition is a separate publication except for material common to all editions.*

4. A solicitation made in a radio or television program or other electronic communication received in this State which originates outside this State is not made in this State. A radio or television program or other electronic communication shall be deemed to have originated in this State if the broadcast studio or origin of the source of transmission is located within the State, unless:

(a) The program or communication is syndicated and distributed from outside this State for redistribution to the general public in this State;

(b) The program is supplied by a radio, television or other electronic network whose electronic signal originates outside this State for redistribution to the general public in this State;

(c) The program or communication is an electronic signal that originates outside this State and is captured for redistribution to the general public in this State by a community antenna or cable, radio, cable television or other electronic system; or

(d) The program or communication consists of an electronic signal which originates within this State, but which is not intended for redistribution to the general public in this State.

Sec. 124. *The Attorney General may bring an action to restrain a foreign limited partnership from transacting business in this State in violation of sections 107 to 124, inclusive, of this act.*

Sec. 125. *1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:*

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The name of the person designated as the resident agent of the limited partnership, the street address of the resident agent where process may be served upon the partnership and the mailing address of the resident agent if it is different from his street address.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. The registration of a registered limited-liability limited partnership is effective on the later of the filing of the certificate of registration or a date specified in the certificate of registration.

Sec. 126. *1. The name proposed for a registered limited-liability limited partnership must contain the words "Limited-Liability Limited Partnership" or "Registered Limited-Liability Limited Partnership" or the abbreviation "L.L.L.P." or "LLLP" as the last words or letters of the name and must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name of the registered limited-liability limited partnership on a certificate of registration*

of limited-liability limited partnership submitted to the Secretary of State is not distinguishable from any name on file or reserved name, the Secretary of State shall return the certificate to the person who signed it, unless the written, acknowledged consent to the same name of the holder of the name on file or reserved name to use the name accompanies the certificate.

2. The Secretary of State shall not accept for filing any certificate of registration or any certificate of amendment of a certificate of registration of any registered limited-liability limited partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability limited partnership contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the certificate of registration or certificate of amendment that the purpose of the registered limited-liability limited partnership is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the registered limited-liability limited partnership has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

3. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

4. The name of a registered limited-liability limited partnership whose right to transact business has been forfeited, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

5. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 127. *The registration of a registered limited-liability limited partnership is effective until:*

1. Its certificate of registration is revoked pursuant to section 61 of this act; or

2. The registered limited-liability limited partnership files with the Secretary of State a notice of withdrawal signed by a general partner. The notice must be accompanied by a fee of $60.

Sec. 128. *The status of a limited partnership as a registered limited-liability limited partnership, and the liability of its partners, are not affected by errors in the information contained in a certificate of registration or an annual list required to be filed with the Secretary of State, or by changes after the filing of such a certificate or list in the information contained in the certificate or list.*

Sec. 129. *The name of a foreign registered limited-liability limited partnership that is doing business in this State must contain the words "Limited-Liability Limited Partnership" or "Registered Limited-Liability Limited Partnership" or the abbreviations "L.L.L.P." or "LLLP," or such other words or abbreviations as may be required or authorized by the laws of the other jurisdiction, as the last words or letters of the name.*

Sec. 130. *1. Subject to subsection 2, a partner may maintain a direct action against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities, to enforce the rights and otherwise protect the interests of the partner, including rights and interests under the partnership agreement or this chapter or arising independently of the partnership relationship.*

2. A partner commencing a direct action under this section is required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

3. The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

Sec. 131. *A partner may maintain a derivative action to enforce a right of a limited partnership if:*

1. The partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

2. A demand would be futile.

Sec. 132. *A derivative action may be maintained only by a person that is a partner at the time the action is commenced and:*

1. That was a partner when the conduct giving rise to the action occurred; or

2. Whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

Sec. 133. *In a derivative action, the complaint must state with particularity:*

1. The date and content of plaintiff's demand and the general partners' response to the demand; or

2. Why demand should be excused as futile.

Sec. 134. *1. Except as otherwise provided in subsection 2:*

(a) Any proceeds or other benefits of a derivative action, whether by judgment, compromise or settlement, belong to the limited partnership and not to the derivative plaintiff.

(b) If the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership.

2. If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from the recovery of the limited partnership.

Sec. 135. *In applying and construing the Uniform Limited Partnership Act (2001), consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.*

Sec. 136. *This chapter modifies, limits or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but this chapter does not modify, limit or supersede Section 101(c) of that Act or authorize electronic delivery of any of the notices described in Section 103(b) of that Act.*

Sec. 137. *1. A limited partnership formed under any statute of this State prior to July 1, 1931, may become a limited partnership under this chapter by complying with the provisions of this chapter if the certificate sets forth:*

(a) The amount of the original contribution of each limited partner, and the time when the contribution was made; and

(b) That the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of its limited partners.

2. A limited partnership formed under any statute of this State prior to July 1, 1931, until or unless it becomes a limited partnership under this chapter or chapter 88 of NRS, shall continue to be governed by the provisions of chapter 60, Laws of Nevada Territory 1862, entitled "An Act to Authorize the Formation of Limited Partnerships," approved December 19, 1862, except that such a partnership must not be renewed unless so provided in the original agreement.

Sec. 138. *To the extent permitted by the law of that jurisdiction, a limited partnership formed and existing under this chapter may conduct its business, carry on its operations and exercise the powers granted by this chapter in any state, territory, district or possession of the United States or in any foreign country.*

Sec. 139. Chapter 88 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of this chapter apply to a limited partnership:

1. Which was formed before October 1, 2007, and which does not voluntarily elect to be governed by the provisions of sections 2 to 138, inclusive, of this act; or

2. Which is formed on or after October 1, 2007, and which voluntarily elects to be governed by the provisions of this chapter.

Sec. 140. NRS 88.640 is hereby amended to read as follows:

88.640 1. A limited partnership formed under any statute of this State prior to July 1, 1931, may become a limited partnership under this chapter by complying with the provisions of this chapter if the certificate sets forth:

(a) The amount of the original contribution of each limited partner, and the time when the contribution was made; and

(b) That the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of its limited partners.

2. A limited partnership formed under any statute of this State prior to July 1, 1931, until or unless it becomes a limited partnership under this chapter [,] *or sections 2 to 138, inclusive, of this act,* shall continue to be governed by the provisions of chapter 60, Laws of Nevada Territory 1862, entitled "An Act to Authorize the Formation of Limited Partnerships," approved December 19, 1862, except that such a partnership must not be renewed unless so provided in the original agreement.

Sec. 141. NRS 88.645 is hereby amended to read as follows:

88.645 Except as affecting existing limited partnerships to the extent set forth in NRS 88.640 ~~[,]~~ *and section 137 of this act,* chapter 60, Laws of Nevada Territory 1862, entitled "An Act to Authorize the Formation of Limited Partnerships," approved December 19, 1862, is hereby repealed.

Sec. 142. NRS 92A.035 is hereby amended to read as follows:

92A.035 "Domestic limited partnership" means a limited partnership organized and existing under chapter 88 of NRS ~~[.]~~ *or sections 2 to 138, inclusive, of this act.*

Sec. 143. NRS 92A.200 is hereby amended to read as follows:

92A.200 1. After a plan of merger or exchange is approved as required by this chapter, the surviving or acquiring entity shall deliver to the Secretary of State for filing articles of merger or exchange setting forth:

(a) The name and jurisdiction of organization of each constituent entity;

(b) That a plan of merger or exchange has been adopted by each constituent entity or the parent domestic entity only, if the merger is pursuant to NRS 92A.180;

(c) If approval of the owners of one or more constituent entities was not required, a statement to that effect and the name of each entity;

(d) If approval of owners of one or more constituent entities was required, the name of each entity and a statement for each entity that the plan was approved by the required consent of the owners;

(e) In the case of a merger, the amendment, if any, to the charter document of the surviving entity, which amendment may be set forth in the articles of merger as a specific amendment or in the form of an amended and restated charter document or attached in that form as an exhibit; and

(f) If the entire plan of merger or exchange is not set forth, a statement that the complete signed plan of merger or plan of exchange is on file at the registered office if a corporation, limited-liability company or business trust, or office described in paragraph (a) of subsection 1 of NRS 88.330 *or paragraph (a) of subsection 1 of section 43 of this act* if a limited partnership, or other place of business of the surviving entity or the acquiring entity, respectively.

2. Any of the terms of the plan of merger, conversion or exchange may be made dependent upon facts ascertainable outside of the plan of merger,

conversion or exchange, provided that the plan of merger, conversion or exchange clearly and expressly sets forth the manner in which such facts shall operate upon the terms of the plan. As used in this section, the term "facts" includes, without limitation, the occurrence of an event, including a determination or action by a person or body, including a constituent entity.

Sec. 144. NRS 92A.205 is hereby amended to read as follows:

92A.205 1. After a plan of conversion is approved as required by this chapter, if the resulting entity is a domestic entity, the constituent entity shall deliver to the Secretary of State for filing:

(a) Articles of conversion setting forth:

(1) The name and jurisdiction of organization of the constituent entity and the resulting entity; and

(2) That a plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.

(b) The charter document of the domestic resulting entity required by the applicable provisions of chapter 78, 78A, 82, 86, 88, 88A or 89 of NRS ~~[.]~~ *or sections 2 to 138, inclusive, of this act.*

(c) A certificate of acceptance of appointment of a resident agent for the resulting entity which is signed by the resident agent.

2. After a plan of conversion is approved as required by this chapter, if the resulting entity is a foreign entity, the constituent entity shall deliver to the Secretary of State for filing articles of conversion setting forth:

(a) The name and jurisdiction of organization of the constituent entity and the resulting entity;

(b) That a plan of conversion has been adopted by the constituent entity in compliance with the laws of this State; and

(c) The address of the resulting entity where copies of process may be sent by the Secretary of State.

3. If the entire plan of conversion is not set forth in the articles of conversion, the filing party must include in the articles of conversion a statement that the complete signed plan of conversion is on file at the registered office or principal place of business of the resulting entity or, if the resulting entity is a domestic limited partnership, the office described in paragraph (a) of subsection 1 of NRS 88.330 ~~[.]~~ *or paragraph (a) of subsection 1 of section 43 of this act.*

4. If the conversion takes effect on a later date specified in the articles of conversion pursuant to NRS 92A.240, the charter document to be filed with the Secretary of State pursuant to paragraph (b) of subsection 1 must state the name and the jurisdiction of the constituent entity and that the existence of the resulting entity does not begin until the later date.

5. Any records filed with the Secretary of State pursuant to this section must be accompanied by the fees required pursuant to this title for filing the charter document.

Sec. 145. NRS 116.11085 is hereby amended to read as follows:

116.11085 If a matter governed by this chapter is also governed by chapter 78, 81, 82, 86, 87, 88 or 88A of NRS *or sections 2 to 138, inclusive, of this act* and there is a conflict between the provisions of this chapter and the provisions of those other chapters, the provisions of this chapter prevail.

Sec. 146. NRS 116.3101 is hereby amended to read as follows:

116.3101 1. A unit-owners' association must be organized no later than the date the first unit in the common-interest community is conveyed.

2. The membership of the association at all times consists exclusively of all units' owners or, following termination of the common-interest community, of all owners of former units entitled to distributions of proceeds under NRS 116.2118, 116.21183 and 116.21185, or their heirs, successors or assigns.

3. The association must:

(a) Be organized as a profit or nonprofit corporation, association, limited-liability company, trust or partnership;

(b) Include in its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof, that the purpose of the corporation, association, limited-liability company, trust or partnership is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "common-interest community," "community association," "master association," "homeowners' association" or "unit-owners' association"; and

(d) Comply with the *applicable* provisions of chapters 78, 81, 82, 86, 87, 88 and 88A of NRS *and sections 2 to 138, inclusive, of this act* when filing with the Secretary of State its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof.

Sec. 147. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541 or 88.591, *or section 112 of this act*, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do

not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required pursuant to this section to the Administrator if they are not paid by the master association.

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed $3 per unit.

4. The Division shall impose an administrative penalty against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or master association or $500, whichever amount is less. The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to both an association and a master association.

6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.

7. A master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by an association that is subject to the governing documents of the master association.

8. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association or master association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

Sec. 148. NRS 463.4864 is hereby amended to read as follows:

463.4864 "Limited partnership" means a partnership formed by two or more persons pursuant to the terms of chapter 88 of NRS ~~[,]~~ *or sections 2 to 138, inclusive, of this act,* having as members one or more general partners and one or more limited partners.

Sec. 149. NRS 463.4865 is hereby amended to read as follows:

463.4865 "Limited partnership interest" means the right of a general or limited partner to receive from a limited partnership:

1. A share of the profits;

2. Any other compensation by way of income; or

3. A return of any or all of his contribution to capital of the limited partnership,

➥ or the right to exercise any of the rights or powers provided in chapter 88 of NRS ~~[,]~~ *or sections 2 to 138, inclusive, of this act,* whether directly or indirectly.

Sec. 150. NRS 520.260 is hereby amended to read as follows:

520.260 Nothing contained in NRS 520.160 to 520.250, inclusive, prevents persons described in NRS 520.160 from forming a partnership under ~~[either]~~ chapter 87 or ~~[chapter]~~ 88 of NRS ~~[.]~~ *or sections 2 to 138, inclusive, of this act.*

Sec. 151. NRS 602.080 is hereby amended to read as follows:

602.080 Limited partnerships formed and foreign limited partnerships registered pursuant to chapter 88 of NRS *or sections 2 to 138, inclusive, of this act* are not required to comply with the provisions of this chapter.

Sec. 152. The amendatory provisions of this act do not affect an action or proceeding commenced or right accrued before October 1, 2007.

Sec. 153. If a limited partnership formed before October 1, 2007, voluntarily elects to be governed by the provisions of sections 2 to 138, inclusive, of this act, the provisions of sections 2 to 138, inclusive, of this act relating to the liability of the limited partnership's partners to third parties apply to limit those partners' liability to a third party who had done business with the limited partnership within 1 year before the limited partnership's election to be governed by the provisions of sections 2 to 138, inclusive, of this act only if the third party knows or has received a notification of the limited partnership's election to be governed by the provisions of sections 2 to 138, inclusive, of this act.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 103.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 40.

"SUMMARY—Adopts the Uniform Unclaimed Property Act. (BDR 10-718)"

"AN ACT relating to unclaimed property; adopting the Uniform Unclaimed Property Act; repealing conflicting provisions of the existing Uniform Disposition of Unclaimed Property Act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, Nevada has enacted the Uniform Disposition of Unclaimed Property Act. The existing Uniform Act establishes the powers,

duties and liabilities of the State and other persons concerning certain property which is abandoned and unclaimed by its owner. (Chapter 120A of NRS)

This bill replaces the existing Uniform Act with the updated and revised Uniform Unclaimed Property Act (1995). This bill retains many of the provisions of the existing Uniform Act. However, this bill reorganizes certain provisions from the existing Uniform Act to eliminate redundancy, it updates certain provisions to reflect holdings by the United States Supreme Court and it adds certain provisions regarding application and enforcement of the Act.

Under the existing Uniform Act, certain tangible property such as the contents of safe-deposit boxes and intangible property such as traveler's checks, money orders, stocks and monies owed by insurance companies, retirement plans and businesses are considered unclaimed by their owners after a certain period of abandonment. (NRS 120A.160-120A.240) Section 8 of this bill reorganizes into a single section all of the periods of abandonment that are set forth in separate sections in the existing Uniform Act.

The existing Uniform Act does not contain the provisions in sections 10 and 18 of this bill which codify certain rules of priority established by United States Supreme Court when more than one state seeks custody over unclaimed property. (*Delaware v. New York*, 507 U.S. 490, 113 S. Ct. 1550 (1993); *Pennsylvania v. New York*, 407 U.S. 206, 92 S. Ct. 2075 (1972); *Texas v. New Jersey*, 379 U.S. 674, 85 S. Ct. 626 (1965))

The existing Uniform Act does not contain the provisions in section 12 of this bill which clarify the State's burden of proof when it is trying to show the existence and amount of unclaimed property in the possession of certain holders and which recognizes several affirmative defenses that may be established by those holders.

The existing Uniform Act does not contain the provisions in section 25 of this bill which require holders of unclaimed property and issuers of traveler's checks and money orders to maintain records of certain information for a designated number of years.

The existing Uniform Act contains criminal penalties for persons who do not comply with the provisions of the Act. (NRS 120A.440) This bill eliminates those criminal penalties, and section 28 of this bill adds provisions which impose civil monetary penalties on holders of unclaimed property who fail to report, pay or deliver the unclaimed property to the State.

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

Section 1. Chapter 120A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this act.

Sec. 2. *"Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.*

Sec. 3. *"Mineral" means gas, oil, coal and other gaseous, liquid and solid hydrocarbons, oil shale, cement material, sand, gravel, road material,*

building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resource or any other substance defined as a mineral by the law of this State.

Sec. 4. *"Mineral proceeds" means amounts payable for the extraction, production or sale of minerals or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:*

1. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

2. For the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

3. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.

Sec. 5. *"Property" means tangible property described in section 9 of this act or a fixed and certain interest in intangible property that is held, issued or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality, and all income or increments therefrom. The term includes property that is referred to as or evidenced by:*

1. Money or a check, draft, deposit, interest or dividend;

2. A credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, ~~[unused ticket,]~~ mineral proceeds or unidentified remittance;

3. Stock or other evidence of ownership of an interest in a business association or financial organization;

4. A bond, debenture, note or other evidence of indebtedness;

5. Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions;

6. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; and

7. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits.

Sec. 6. *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

Sec. 7. *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 8. *1. Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:*

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) A gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is deemed to be 60 percent of the certificate's face value;

(h) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(i) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(j) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(k) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(l) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(m) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(n) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(o) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

Sec. 9. *Tangible property held in a safe-deposit box or other safekeeping depository in this State in the ordinary course of the holder's*

business and proceeds resulting from the sale of the property permitted by other law are presumed abandoned if the property remains unclaimed by the owner for more than 3 years after expiration of the lease or rental period on the box or other depository.

Sec. 10. *Except as otherwise provided in this chapter or by other statute of this State, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this State if:*

1. The last known address of the apparent owner, as shown on the records of the holder, is in this State;

2. The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;

3. The records of the holder do not reflect the last known address of the apparent owner and it is established that:

(a) The last known address of the person entitled to the property is in this State; or

(b) The holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

4. The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;

5. The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;

6. The transaction out of which the property arose occurred in this State, the holder is domiciled in a state that does not provide for the escheat or custodial taking of the property and the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide for the escheat or custodial taking of the property; or

7. The property is a traveler's check or money order purchased in this State or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased.

Sec. 11. *A holder may deduct from property presumed abandoned a charge imposed by reason of the owner's failure to claim the property within a specified time only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge and the holder regularly imposes the charge, which is not regularly*

reversed or otherwise cancelled. The amount of the deduction ~~[is limited to an amount that is not unconscionable.]~~ must not exceed $5 per month.

Sec. 12. *A record of the issuance of a check, draft or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the Administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge and want of consideration are affirmative defenses that must be established by the holder.*

Sec. 13. *1. A holder of property presumed abandoned shall make a report to the Administrator concerning the property.*

2. The report must be verified and must contain:

(a) A description of the property;

(b) Except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of $50 or more;

(c) ~~[An aggregated amount of items]~~ In the case of items valued under $50 ~~[each,]~~ , a statement of the aggregate value of all items valued under $50.

(d) In the case of an amount of $50 or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;

(e) In the case of property held in a safe-deposit box or other safekeeping depository, an indication of the place where it is held and where it may be inspected by the Administrator and any amounts owing to the holder;

(f) The date, if any, on which the property became payable, demandable or returnable and the date of the last transaction with the apparent owner with respect to the property; and

(g) Other information that the Administrator by regulation prescribes as necessary for the administration of this chapter.

3. If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

4. The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a report with respect to ~~[a life]~~ an insurance company must be filed before May 1 of each year for the calendar year next preceding.

5. The holder of property presumed abandoned shall send written notice to the apparent owner, not more than 120 days or less than 60 days before filing the report, stating that the holder is in possession of property subject to this chapter, if:

(a) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

(b) The claim of the apparent owner is not barred by a statute of limitations; and

(c) The value of the property is $50 or more.

6. Before the date for filing the report, the holder of property presumed abandoned may request the Administrator to extend the time for filing the report. The Administrator may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

7. The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with subsection 5.

8. ~~[The Administrator may require a]~~ A person reporting 15 or more items of property pursuant to this section ~~[to]~~ shall file the report ~~[on diskette]~~ electronically in lieu of on paper.

Sec. 14. *1. Except for property held in a safe-deposit box or other safekeeping depository, upon filing the report required by section 13 of this act, the holder of property presumed abandoned shall pay, deliver or cause to be paid or delivered to the Administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe-deposit box or other safekeeping depository may not be delivered to the Administrator until ~~[120]~~ 60 days after filing the report required by section 13 of this act.*

2. If the property reported to the Administrator is a security or security entitlement under NRS 104.8101 to 104.8511, inclusive, the Administrator is an appropriate person to make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with NRS 104.8101 to 104.8511, inclusive.

3. If the holder of property reported to the Administrator is the issuer of a certificated security, the Administrator has the right to obtain a replacement certificate pursuant to NRS 104.8405, but an indemnity bond is not required.

4. An issuer, the holder and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with section 16 of this act.

Sec. 15. *1. The Administrator shall publish a notice not later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the Administrator. The notice must be published in a newspaper of general circulation in the county of this State in which is located the last known address of any person named in the notice. If*

a holder does not report an address for the apparent owner or the address is outside this State, the notice must be published in ~~[the county in which the holder has its principal place of business within this State or another]~~ a county that the Administrator reasonably selects. The advertisement must be in a form that, in the judgment of the Administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The form must contain:

(a) The name of each person appearing to be the owner of the property, as set forth in the report filed by the holder;

(b) The city or town in which the last known address ~~[or location]~~ of each person appearing to be the owner of the property ~~[,]~~ is located, if ~~[an address or location]~~ a city or town is set forth in the report filed by the holder;

(c) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the Administrator; and

(d) A statement that information about the property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the Administrator.

2. The Administrator is not required to advertise the name and ~~[address or location]~~ city or town of an owner of property having a total value less than $50 or information concerning a traveler's check, money order or similar instrument.

Sec. 16. *1. For the purposes of this section, payment or delivery is made in "good faith" if:*

(a) Payment or delivery was made in a reasonable attempt to comply with this chapter;

(b) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and

(c) There is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

2. Upon payment or delivery of property to the Administrator, the State assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the Administrator in good faith is relieved of all liability arising thereafter with respect to the property.

3. A holder who has paid money to the Administrator pursuant to this chapter may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the Administrator shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument

was duly presented and that payment was made to a person who reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made even if the payment was made to a person whose claim was barred under subsection 1 of section 23 of this act.

4. A holder who has delivered property other than money to the Administrator pursuant to this chapter may reclaim the property if it is still in the possession of the Administrator, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

5. The Administrator may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

6. If a holder pays or delivers property to the Administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the Administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim resulting from payment or delivery of the property to the Administrator.

7. Property removed from a safe-deposit box or other safekeeping depository is received by the Administrator subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The Administrator shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the Administrator in selling the property.

Sec. 17. *If property other than money is delivered to the Administrator under this chapter, the owner is entitled to receive from the Administrator any income or gain realized or accruing on the property at or before liquidation or conversion of the property into money.* ~~*[If the property was an interest-bearing demand, savings or time deposit, including a deposit that is automatically renewable, the Administrator shall pay interest at the legal rate or any lesser rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the Administrator and ceases on the earlier of the expiration of 10 years after delivery or the date on which payment is made to the owner. Interest on interest-bearing property is not payable for any period before October 1, 2007, unless authorized by law superseded by this chapter.]*~~

Sec. 18. *1. After property has been paid or delivered to the Administrator under this chapter, another state may recover the property if:*

(a) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of

that state the property has escheated or become subject to a claim of abandonment by that state;

(b) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property and under the laws of that state subsequently enacted the property has escheated or become subject to a claim of abandonment by that state;

(c) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(d) The property was subjected to custody by this State under subsection 6 of section 10 of this act and under the laws of the state of domicile of the holder the property has escheated or become subject to a claim of abandonment by that state; or

(e) The property is a sum payable on a traveler's check, money order or similar instrument that was purchased in the other state and delivered into the custody of this State under subsection 7 of section 10 of this act, and under the laws of the other state the property has escheated or become subject to a claim of abandonment by that state.

2. A claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the Administrator, who shall decide the claim within 90 days after it is presented. The Administrator shall allow the claim upon determining that the other state is entitled to the abandoned property under subsection 1.

3. The Administrator shall require another state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim to the property.

Sec. 19. *1. A person, excluding another state, claiming property paid or delivered to the Administrator may file a claim on a form prescribed by the Administrator and verified by the claimant.*

2. Within 90 days after a claim is filed, the Administrator shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Administrator shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Administrator or maintain an action under section 20 of this act.

3. Except as otherwise provided in subsection 5, within 30 days after a claim is allowed, the property or the net proceeds of a sale of the property must be delivered or paid by the Administrator to the claimant, together with any dividend, interest or other increment to which the claimant is entitled under NRS 120A.360 and section 17 of this act.

4. A holder who pays the owner for property that has been delivered to the State and which, if claimed from the Administrator by the owner would

be subject to an increment under NRS 120A.360 and section 17 of this act may recover from the Administrator the amount of the increment.

5. The Administrator may require a person with a claim in excess of ~~[$1,000]~~ $2,000 to furnish a bond and indemnify the State against any loss resulting from the approval of such claim if the claim is based upon an original instrument, including, without limitation, a certified check or a stock certificate ~~[,]~~ or other proof of ownership of securities, which cannot be furnished by the person with the claim.

Sec. 20. *A person aggrieved by a decision of the Administrator or whose claim has not been acted upon within 90 days after its filing may maintain an original action to establish the claim in the district court, naming the Administrator as a defendant. If the aggrieved person establishes the claim in an action against the Administrator, the court may award the claimant reasonable attorney's fees.*

Sec. 21. *1. The Administrator may decline to receive property reported under this chapter which the Administrator considers to have a value less than the expenses of notice and sale.*

2. A holder, with the written consent of the Administrator and upon conditions and terms prescribed by the Administrator, may report and deliver property before the property is presumed abandoned. Property so delivered must be held by the Administrator and is not presumed abandoned until it otherwise would be presumed abandoned under this chapter.

Sec. 22. *If the Administrator determines after investigation that property delivered under this chapter has no substantial commercial value, the Administrator may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the State or any officer or employee or against the holder for or on account of an act of the Administrator under this section, except for intentional misconduct or malfeasance.*

Sec. 23. *1. The expiration, before or after October 1, 2007, of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute or court order, does not preclude the property from being presumed abandoned or affect a duty to file a report or to pay or deliver or transfer property to the Administrator as required by this chapter.*

2. An action or proceeding may not be maintained by the Administrator to enforce this chapter in regard to the reporting, delivery or payment of property more than 10 years after the holder specifically identified the property in a report filed with the Administrator or gave express notice to the Administrator of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

Sec. 24. *1. The Administrator may require a person who has not filed a report, or a person who the Administrator believes has filed an inaccurate, incomplete or false report, to file a verified report in a form specified by the Administrator. The report must state whether the person is holding property*

reportable under this chapter, describe property not previously reported or as to which the Administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.

2. The Administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this chapter. The Administrator may conduct the examination even if the person believes he is not in possession of any property that must be reported, paid or delivered under this chapter. The Administrator may contract with any other person to conduct the examination on behalf of the Administrator.

3. The Administrator at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association or financial organization that is the holder of property presumed abandoned if the Administrator has given the notice required by subsection 2 to both the association or organization and the agent at least 90 days before the examination.

4. Documents and working papers obtained or compiled by the Administrator, or the Administrator's agents, employees or designated representatives, in the course of conducting an examination are confidential and are not public records, but the documents and papers may be:

(a) Used by the Administrator in the course of an action to collect unclaimed property or otherwise enforce this chapter;

(b) Used in joint examinations conducted with or pursuant to an agreement with another state, the Federal Government or any other governmental subdivision, agency or instrumentality;

(c) Produced pursuant to subpoena or court order; or

(d) Disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this subdivision, if the other state is bound to keep the documents and papers confidential.

5. If an examination of the records of a person results in the disclosure of property reportable under this chapter, the Administrator may assess the cost of the examination against the holder at the rate of $200 a day for each examiner or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of an examination made pursuant to subsection 3 may be assessed only against the business association or financial organization.

6. If, after October 1, 2007, a holder does not maintain the records required by section 25 of this act and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the Administrator may require the holder to report and pay to the Administrator the amount the Administrator reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation, should have been but was not reported.

Sec. 25. *1. Except as otherwise provided in subsection 2, a holder required to file a report under section 13 of this act shall maintain the*

records containing the information required to be included in the report for ~~[10]~~ 7 years after the holder files the report, unless a shorter period is provided by regulation of the Administrator.

2. A business association or financial organization that sells, issues or provides to others for sale or issue in this State, traveler's checks, money orders or similar instruments other than third-party bank checks, on which the business association or financial organization is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the State and date of issue, for 3 years after the holder files the report.

Sec. 26. *The Administrator may maintain an action in this State or another state to enforce this chapter. The court may award reasonable attorney's fees to the prevailing party.*

Sec. 27. *1. The Administrator may enter into an agreement with another state to exchange information relating to abandoned property or its possible existence. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized in section 24 of this act. The Administrator by regulation may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.*

2. The Administrator may join with another state to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

3. At the request of another state, the Attorney General of this State may maintain an action on behalf of the other state to enforce, in this State, the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in maintaining the action.

4. The Administrator may request that the attorney general of another state or another attorney commence an action in the other state on behalf of the Administrator. With the approval of the Attorney General of this State, the Administrator may retain any other attorney to commence an action in this State on behalf of the Administrator. This State shall pay all expenses, including attorney's fees, in maintaining an action under this subsection. With the Administrator's approval, the expenses and attorney's fees may be paid from money received under this chapter. The Administrator may agree to pay expenses and attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses or attorney's fees paid under this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter.

Sec. 28. *1. A holder who fails to report, pay or deliver property within the time prescribed by this chapter shall pay to the Administrator interest at the rate of 18 percent per annum on the property or value thereof from the date the property should have been reported, paid or delivered.*

2. Except as otherwise provided in subsection 3, a holder who fails to report, pay or deliver property within the time prescribed by this chapter or fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of $200 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of $5,000.

3. A holder who willfully fails to report, pay or deliver property within the time prescribed by this chapter or willfully fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of $1,000 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of $25,000, plus 25 percent of the value of any property that should have been but was not reported.

4. A holder who makes a fraudulent report shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of $1,000 for each day from the date a report under this chapter was due, up to a maximum of $25,000, plus 25 percent of the value of any property that should have been but was not reported.

5. The Administrator for good cause may waive, in whole or in part, interest under subsection 1 and penalties under subsections 2 and 3, and shall waive penalties if the holder acted in good faith and without negligence.

Sec. 29. *1. An agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the Administrator. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the Administrator's denial of a claim.*

2. An agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property, is enforceable only if the agreement is in writing, clearly sets forth the nature of the property and the services to be rendered, is signed by the apparent owner and states the value of the property before and after the fee or other compensation has been deducted.

3. If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

4. An agreement covered by this section ~~[which provides]~~ must not provide for compensation that is ~~[unconscionable]~~ more than 10 percent of the total value of the property that is the subject of the agreement. An agreement that provides for compensation that is more than 10 percent of the total value of the property that is the subject of the agreement is

unenforceable except by the owner. An owner who has agreed to pay compensation that is ~~[unconscionable,]~~ more than 10 percent of the total value of the property that is the subject of the agreement, or the Administrator on behalf of the owner, may maintain an action to reduce the compensation to ~~[a conscionable amount.]~~ an amount that does not exceed 10 percent of the total value of the property. The court may award reasonable attorney's fees to an owner who prevails in the action.

5. This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than ~~[unconscionable compensation.]~~ that the compensation is more than 10 percent of the total value of the property that is the subject of the agreement.

Sec. 30. NRS 120A.010 is hereby amended to read as follows:

120A.010 This chapter may be cited as the Uniform ~~[Disposition of]~~ Unclaimed Property Act.

Sec. 31. NRS 120A.020 is hereby amended to read as follows:

120A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 120A.025 to 120A.120, inclusive, *and sections 2 to 7, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 32. NRS 120A.040 is hereby amended to read as follows:

120A.040 "Business association" means a corporation, ~~[other than a public corporation, a]~~ joint-stock company, investment company, partnership, unincorporated association, joint venture, limited-liability company, business trust, *trust company, land bank, safe-deposit company or other safekeeping depository,* financial organization, insurance company, mutual fund or utility, or another business entity consisting of one or more persons, whether or not for profit.

Sec. 33. NRS 120A.070 is hereby amended to read as follows:

120A.070 "Financial organization" means a savings and loan association, *building and loan association, savings bank, industrial bank, bank,* banking organization or credit union.

Sec. 34. NRS 120A.100 is hereby amended to read as follows:

120A.100 "Owner" means a *person who has a legal or equitable interest in property subject to this chapter or the person's legal representative. The term includes a* depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, *and* a creditor, claimant or payee in the case of other ~~[intangible property, or a person having a legal or equitable interest in property subject to this chapter, or his legal representative.]~~ *property.*

Sec. 35. NRS 120A.110 is hereby amended to read as follows:

120A.110 "Person" means a natural person, business association, *financial organization,* estate, trust, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

Sec. 36. NRS 120A.120 is hereby amended to read as follows:

120A.120 "Utility" means any person who owns or operates ~~[within this State]~~ for public use any plant, equipment, *real* property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

Sec. 37. NRS 120A.130 is hereby amended to read as follows:

120A.130 This chapter shall be ~~[so construed as]~~ *applied and construed* to effectuate its general purpose to make uniform the law ~~[of those states which]~~ *with respect to the subject matter of the Uniform Unclaimed Property Act among the states that* enact it.

Sec. 38. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to gaming ~~*[:*~~ ~~*(a) Gaming]*~~ chips or tokens which are not redeemed at an establishment. ~~*[*~~ ~~*(b) Property held, due and owing in a foreign country and arising out of a foreign transaction.]*~~

2. As used in this section:

(a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) "Gaming chip or token" means any object which may be redeemed at an establishment for cash or any other representative of value.

Sec. 39. NRS 120A.360 is hereby amended to read as follows:

120A.360 1. Except as otherwise provided in subsections 4, 5 and 6, all abandoned property other than money delivered to the Administrator under this chapter must, within 2 years after the delivery, be sold by ~~*[this section,]*~~ the Administrator ~~*[, within 3 years after the receipt of abandoned property, shall sell it]*~~ to the highest bidder at public sale ~~*[which]*~~ in whatever manner affords , in his judgment , ~~*[affords]*~~ the most favorable market for the property . ~~[involved.]~~ The Administrator may decline the highest bid and reoffer the property for sale if he considers the ~~[price]~~ bid *to be* insufficient.

2. Any sale held under this section must be preceded by a single publication of notice , ~~[thereof]~~ at least ~~[2 weeks in advance of the]~~ *3 weeks before* sale , in a newspaper of general circulation in the county ~~[where]~~ *in which* the property is to be sold.

3. ~~*[Securities listed on an established stock exchange must be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the Administrator. If securities are sold by the Administrator before the expiration of 3 years after their delivery to the Administrator, a person making a claim under this chapter before the end of the 3-year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this chapter after the expiration of the 3-year period is entitled to receive the securities delivered to the Administrator by the holder, if they still remain in the custody of the Administrator, or the net proceeds received*~~

~~*from sale, and is not entitled to receive any appreciation in the value of the property occurring after delivery to the Administrator, except in a case of intentional misconduct or malfeasance by the Administrator.*~~

~~*4.*~~ The purchaser *of property* at any sale conducted by the Administrator pursuant to this chapter ~~[is vested with title to]~~ *takes* the property ~~[purchased, free from]~~ *free of* all claims of the owner or ~~[prior]~~ *previous* holder and of all persons claiming through or under them. The Administrator shall execute all documents necessary to complete the transfer of ~~[title.]~~ *ownership.*

4. ~~*[ownership.*~~

~~*5.]*~~ The Administrator need not offer any property for sale if ~~[, in his opinion,]~~ *he considers that* the probable cost of the sale ~~[exceeds the value of the property.]~~ *will exceed the proceeds of the sale.* The Administrator may destroy or otherwise dispose of such property or may transfer it to:

(a) The Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society, upon its written request, if the property has, in the opinion of the requesting institution, historical, artistic or literary value and is worthy of preservation;

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

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

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

5. *Securities delivered to the Administrator pursuant to this chapter may be sold by the Administrator at any time after the delivery.* Securities listed on an established stock exchange must be sold at the prevailing price for that security on the exchange at the time of sale. Other securities not listed on an established stock exchange may be sold:

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

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

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

Sec. 40. NRS 120A.370 is hereby amended to read as follows:

120A.370 1. There is hereby created in the State Treasury the Abandoned Property Trust ~~[Fund.]~~ *Account.*

2. All money received by ~~[Except as otherwise provided in this section,]~~ the Administrator ~~[shall promptly deposit in the State Treasury for credit to the Abandoned Property Trust Fund all money received]~~ under this chapter, including the proceeds from the sale of abandoned property , must be deposited by the Administrator in the State Treasury for credit to the Abandoned Property Trust ~~[Fund.]~~ *Account.*

3. Before making a deposit, the ~~[under NRS 120A.360.~~

~~3. The]~~ Administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and the name and last known address of each insured person or annuitant , ~~[and beneficiary]~~ and with respect to each policy or contract ~~[annuity]~~ listed in the report of an insurance company, its number, the name of the company and the amount due. The record must be available for public inspection at all reasonable business hours.

4. The Administrator may pay from money available in

~~[4. Before making a deposit in the State Treasury for credit to]~~ the Abandoned Property Trust ~~[Fund,]~~ *Account* :

(a) Any costs in connection with the ~~[Administrator may deduct:~~

~~(a) Expenses of]~~ sale of abandoned property .

(b) Any costs ~~[:~~

~~(b) Costs]~~ of mailing and publication in connection with any abandoned property ~~[;]~~ .

(c) Reasonable service charges .

(d) Any costs ~~[; and~~

~~(d) Expenses]~~ incurred in examining the records of a holder ~~[holders of property]~~ and in collecting the abandoned property.

(e) Any valid claims filed pursuant to this chapter. ~~[property from those holders.]~~

5. ~~[At]~~ *By* the end of each fiscal year, the amount of the balance in the *Abandoned Property Trust* ~~[Fund]~~ *Account* in excess of $100,500 must be transferred. The first $7,600,000 each year must be transferred to the Millennium Scholarship Trust Fund created by NRS 396.926. The remainder must be transferred to the State General Fund, but remains subject to the valid claims of holders ~~[and owners]~~ pursuant to ~~[NRS 120A.340 or owners pursuant to NRS 120A.380.]~~ ~~[this chapter.]~~ *section 16 of this act and owners pursuant to section 19 of this act, except that a claim of a holder or owner may not be paid from money transferred to the Millenium Scholarship Trust Fund pursuant to this section.*

6. If there is an insufficient amount of money in the Abandoned Property Trust ~~[Fund]~~ *Account* to pay any ~~[expense,]~~ cost or charge pursuant to subsection 4, the State Board of Examiners may, upon the application of the Administrator, authorize a temporary transfer from the State General Fund to the Abandoned Property Trust ~~[Fund]~~ *Account* of an amount necessary to pay those ~~[expenses,]~~ costs or charges. The Administrator shall repay the amount

of the transfer as soon as sufficient money is available in the Abandoned Property Trust ~~[Fund.]~~ *Account.*

Sec. 41. NRS 32.020 is hereby amended to read as follows:

32.020 1. In any receivership proceeding instituted in which a dividend has been declared and ordered paid to creditors, any dividend which remains unclaimed for 3 years reverts to the general fund of the estate and must be applied as follows:

(a) To the payment of costs and expenses of the administration of the estate and receivership.

(b) To a new dividend distributed to creditors whose claims have been allowed but not paid in full. After those claims have been paid in full, the balance is presumed abandoned under *chapter 120A of* NRS . ~~[120A.210.]~~

2. This section applies to any receivership proceeding which may be brought, and includes any bank, banking corporation, corporation, copartnership, company, association or natural person.

Sec. 42. NRS 607.170 is hereby amended to read as follows:

607.170 1. The Labor Commissioner may prosecute a claim for wages and commissions or commence any other action to collect wages, commissions and other demands of any person who is financially unable to employ counsel in a case in which, in the judgment of the Labor Commissioner, the claim for wages or commissions or other action is valid and enforceable in the courts.

2. In all matters relating to wages or commissions, the Labor Commissioner may, in accordance with the provisions of NRS 607.210, subpoena any person whose appearance is required to adjust and settle claims or other actions for wages or commissions before bringing suit in those matters, and the Labor Commissioner may effect reasonable compromises of those matters.

3. The Labor Commissioner or his Deputy may maintain a commercial account with any bank or credit union within this State for the deposit of money collected for claims for wages or commissions. The money must be promptly paid to the person entitled thereto. At the end of each calendar year, any unclaimed money in the commercial account which has been a part of the account for 1 year or more is presumed abandoned under *chapter 120A of* NRS . ~~[120A.220.]~~

Sec. 43. NRS 120A.030, 120A.095, 120A.150, 120A.160, 120A.170, 120A.180, 120A.185, 120A.190, 120A.200, 120A.210, 120A.220, 120A.225, 120A.230, 120A.240, 120A.250, 120A.260, 120A.270, 120A.280, 120A.300, 120A.310, 120A.320, 120A.330, 120A.340, 120A.350, 120A.380, 120A.390, 120A.400, 120A.405, 120A.410, 120A.420, 120A.430, 120A.440 and 120A.450 are hereby repealed.

Sec. 44. 1. Except as otherwise provided in this section:

(a) The provisions of this act are intended to substitute the Uniform Unclaimed Property Act (1995), in the form enacted by this act, in a

continuing way for the Uniform Disposition of Unclaimed Property Act, as that act existed in chapter 120A of NRS before October 1, 2007.

(b) If there is a conflict between the provisions of this act and the provisions of the Uniform Disposition of Unclaimed Property Act, as that act existed in chapter 120A of NRS before October 1, 2007, the provisions of this act control.

2. The provisions of this act do not repeal, abrogate or supersede the provisions of section 15 of chapter 347, Statutes of Nevada 2001, at page 1652, to the extent that those provisions remain applicable to the property described in that section.

3. An initial report filed under the provisions of this act for property which was not required to be reported before October 1, 2007, but which is subject to the provisions of this act, must include all items of property that would have been presumed abandoned during the 10-year period next preceding October 1, 2007, as if the provisions of this act had been in effect during that period.

4. The provisions of this act do not relieve a holder of a duty that arose before October 1, 2007, to report, pay or deliver property. Except as otherwise provided in subsection 2 of section 23 of this act, a holder who did not comply with the law in effect before October 1, 2007, is subject to the applicable provisions for enforcement and penalties which then existed, which are continued in effect for the purpose of this section.

5. Any administrative regulations which were adopted under the provisions of chapter 120A of NRS before October 1, 2007, and which do not conflict with the provisions of this act, remain in force until amended or repealed by the Administrator pursuant to NRS 120A.140.

LEADLINES OF REPEALED SECTIONS

120A.030 "Banking organization" defined.

120A.095 "Intangible property" defined.

120A.150 Periods of limitation not bar for purposes of chapter; limitation on actions by Administrator.

120A.160 Property held by business associations.

120A.170 Unclaimed money held by insurance companies.

120A.180 Deposits and advance payments held by utilities.

120A.185 Unclaimed wages held by business.

120A.190 Intangible interest or money held or owing by business associations.

120A.200 Intangible personal property distributable in course of dissolution.

120A.210 Intangible personal property held in fiduciary capacity.

120A.220 Intangible personal property held by court, public corporation or officer, or governmental entity.

120A.225 Intangible personal property held by intermediary in another state.

120A.230 Intangible personal property not otherwise covered by chapter.

120A.240 Reciprocity for property presumed abandoned or escheated under laws of another state.

120A.250 Annual report of property presumed abandoned: Filing; contents; verification.

120A.260 Communication with owner before filing annual report.

120A.270 Reports by business association not holding property presumed abandoned.

120A.280 Notice to owners of abandoned property.

120A.300 Charge upon dormant accounts; limitation upon rate.

120A.310 Charge upon unclaimed property.

120A.320 Payment or delivery of abandoned property to Administrator; delivery of duplicate certificate or other evidence of ownership to Administrator.

120A.330 Administrator may decline to receive abandoned property.

120A.340 Relief from liability by payment or delivery; reimbursement or indemnification of holder.

120A.350 Interest, dividends and other increments accruing before liquidation or conversion to money.

120A.380 Claim for property delivered to State.

120A.390 Determination of claim.

120A.400 Commencement of action in district court to establish claim.

120A.405 Agreements to recover property presumed abandoned.

120A.410 Reciprocity.

120A.420 Examination of records of holders of abandoned property.

120A.430 Action to enforce payment or delivery of abandoned property to Administrator; award of costs and attorney's fees; imposition of civil penalty.

120A.440 Criminal penalties.

120A.450 Interest.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 210.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 312.

"SUMMARY—Revises provisions relating to reimbursement of subsistence and travel expenses relating to the conduct of public business. (BDR 23-569)"

"AN ACT relating to financial administration; revising the provisions relating to the rate at which state officers and employees are to be reimbursed

for their subsistence and travel expenses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, an officer or employee of this State is entitled to be reimbursed for his expenses in conducting public business at the rate of $84 for each 24-hour period during which he is away from the office but within the State, and at the rate of $26 plus reasonable room costs for each 24-hour period during which he is outside of the State. (NRS 281.160) This bill eliminates these rates of reimbursement that are specified in statute and instead requires the State Board of Examiners to establish the rate of reimbursement ~~[,]~~ *at the rate established for federal employees by the United States General Services Administration.* This bill also eliminates the requirement that the State Board of Examiners annually establish the permissible travel allowance for officers and employees of this State who travel by private conveyance in conducting public business, thus allowing the State Board of Examiners to adjust the allowance whenever it deems necessary. (NRS 281.160)

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

Section 1. NRS 281.160 is hereby amended to read as follows:

281.160 1. Except as otherwise provided in subsection 2 *, 5* or ~~[5,]~~ *6,* or by specific statute, ~~[any]~~ *if a* district judge, state officer, state employee or member of an advisory board supported in whole or in part by any public money, whether the public money is received from the Federal Government or any branch or agency thereof, or from private or any other sources, *transacts public business outside of the municipality or other area in which his principal office is located, the judge, officer, employee or member, as applicable,* is entitled to receive his expenses in the transaction of *that* public business , ~~[outside of the municipality or other area in which his principal office is located,]~~ to be paid at ~~[the rate of $84]~~ *a rate established by the State Board of Examiners,* for each 24-hour period during which he is ~~[away]~~ *:*

(a) Away from the office and within the State ~~[, and $26 in addition to a reasonable room rate for each 24-hour period during which he is outside]~~ *; or*

(b) Outside of the State.

2. Any person enumerated in subsection 1 is entitled to receive expenses for a period of less than 24 hours in accordance with regulations of the State Board of Examiners . ~~[conforming generally to those rates.]~~

3. Any person enumerated in subsection 1 is entitled to receive an allowance for transportation in the transaction of public business, whether within or outside of the municipality or other area in which his principal office is located. Transportation must be by the most economical means, considering total cost, time spent in transit and the availability of state-owned automobiles and special use vehicles. The State Board of Examiners ~~[, on or before July 1 of each year,]~~ shall establish the rate of the allowance for travel

by private conveyance. The rate must equal the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax that is in effect at the time the ~~[annual~~ rate is established. If a private conveyance is used for reasons of personal convenience in transaction of state business, the allowance for travel is one-half the established rate.

4. The State Board of Examiners may establish a transportation allowance for the use of private, special use vehicles on public business by any person enumerated in subsection 1, whether within or outside of the municipality or other area in which his principal office is located. The allowance must be established at rates higher than the rates established in subsection 3.

5. The State Board of Examiners may establish:

(a) A room rate in excess of the normal allowance for reimbursement of employees who are required to travel on weekends to serve the needs of the public. The Board may require the submission of receipts as a condition of reimbursement at the special rate.

(b) Reasonable rates for expenses outside of the United States that will allow a person to purchase the same quality of food as the domestic rate allows.

6. The State Board of Examiners shall adopt regulations, and shall require other state agencies to adopt regulations, in accordance with the purpose of this section, and a state agency may, with the approval of the State Board of Examiners, adopt a rate of reimbursement less than the amounts ~~[specified in]~~ *established pursuant to* subsection 1 where unusual circumstances make that rate desirable.

7. The rate established by the State Board of Examiners pursuant to subsection 1 must be the same as the comparable rate established for employees of the Federal Government by the Administrator of General Services pursuant to 5 U.S.C. § 5707, but is not subject to any federal requirement, restriction or other condition that is applicable to that comparable rate.

Sec. 2. NRS 281.172 is hereby amended to read as follows:

281.172 1. Any state officer or employee may apply for advance money for authorized *per diem and* travel expenses ~~[and subsistence allowances]~~ arising out of his official duties or employment in the amounts ~~[as provided for in]~~ *established by the State Board of Examiners pursuant to* NRS 281.160 by filing a request with the administrative head of the state office, department or agency by which he is employed.

2. If the administrative head or his designee approves the request, he shall process a voucher for a cash advance for travel in the approved amount in the same manner as other claims against the State are processed.

3. Unless otherwise approved by the Budget Division of the Department of Administration before the travel occurs, all cash advances for travel issued by the administrative head or his designee must be charged to the budget

account to which money was appropriated or authorized for expenditure for the travel.

4. If the administrative head or his designee cannot process a cash advance for travel because of a temporary budget restriction, the administrative head or his designee may forward a copy of the request and approval to the State Treasurer.

5. Upon receiving a copy of the request and approval from the administrative head or his designee, the State Treasurer or one of his officers or employees whom he has designated for the purpose may issue a check or warrant drawn upon the Account for Travel Advances for the amount of the advance requested.

Sec. 3. NRS 284.0745 is hereby amended to read as follows:

284.0745 1. A subpoena issued by the Chairman of the Employee-Management Committee extends to all parts of this State and must be served in accordance with the provisions of N.R.C.P. 4(c). The Chairman may not require a person named in a subpoena to attend at a place outside the county in which the person resides unless:

(a) The location of the place is less than 100 miles from the person's primary residence; or

(b) A party, by affidavit, shows that the testimony of the person is material and necessary to the proceedings and the Chairman endorses on the subpoena an order requiring the person to attend at the place named in the subpoena, regardless of its location in this State.

2. A person who appears before the Committee pursuant to a subpoena is entitled to receive fees and mileage in the same amounts and under the same circumstances as prescribed by law for a witness in a civil action in the district court, unless the person is a party to the proceeding or an officer or employee of this State or any of its political subdivisions.

3. If a person who is entitled to receive fees and mileage pursuant to subsection 2 must appear at a hearing before the Committee at a place located so far from his primary residence that it is not reasonable for the person to return to that residence from day to day, the person is entitled, in addition to fees and mileage, to receive the per diem ~~[compensation for subsistence and transportation authorized by NRS 281.160]~~ *allowance and travel expenses provided for state officers and employees generally* for each day of actual attendance at such a hearing and for each day necessarily occupied in traveling to and from such a hearing.

4. Except as otherwise provided in subsection 5, a party who requests that the Chairman issue a subpoena to a person shall pay to the Committee the amount of any compensation for ~~[subsistence and transportation]~~ *per diem and travel expenses* that the person is entitled to receive from the Committee pursuant to subsection 3.

5. As part of an award of costs to the party who prevails in a proceeding, the Committee may require the party who did not prevail in the proceeding to pay to the Committee the amount of any compensation for ~~[subsistence and~~

~~transportation]~~ *per diem and travel expenses* that the prevailing party would have otherwise been required to pay to the Committee pursuant to subsection 4.

Sec. 4. NRS 284.376 is hereby amended to read as follows:

284.376 1. Within 10 working days after the effective date of his transfer pursuant to the provisions of NRS 284.375, a permanent classified employee who has been transferred without his consent may request in writing a hearing before the hearing officer of the Department to determine whether the transfer was made for the purpose of harassing the employee. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's transfer. The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive.

2. If the hearing officer determines that the transfer was made for the purpose of harassing the employee, the transfer must be set aside and the employee must be returned to his former position. If the transfer caused the employee to be away from his original headquarters, the employee is entitled to ~~[be paid expense allowances as provided in NRS 281.160]~~ *receive the per diem allowance and travel expenses provided for state officers and employees generally* for the period the transfer was in effect.

3. The decision of the hearing officer is binding on the parties.

Sec. 5. NRS 284.393 is hereby amended to read as follows:

284.393 1. All witnesses appearing pursuant to subpoena, other than parties or officers or employees of the State or any political subdivision thereof, are entitled to receive fees and mileage in the same amounts and under the same circumstances as prescribed by law for witnesses in civil actions in the district courts.

2. Witnesses entitled to fees or mileage who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day are entitled, in addition to fees and mileage, to *receive* the per diem ~~[compensation for subsistence and transportation authorized by NRS 281.160]~~ *allowance and travel expenses provided for state officers and employees generally* for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearings.

3. ~~[Fees for subsistence and transportation]~~ *Per diem and travel* expenses must be paid by the party at whose request the witness is subpoenaed. The hearing officer may award as costs the amount of all such expenses to the prevailing party.

Sec. 6. NRS 288.203 is hereby amended to read as follows:

288.203 1. Each person, except the Commissioner, who serves on a panel formed pursuant to NRS 288.201 is entitled to receive as compensation ~~[$150]~~ *:*

(a) One hundred fifty dollars for each day he is engaged in the business of the panel *;* and ~~[the expenses and allowances prescribed in NRS 281.160.]~~

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

2. All claims which arise pursuant to this section must be paid from the reserve for Statutory Contingency Account upon approval by the Commissioner and the State Board of Examiners.

Sec. 7. NRS 289.500 is hereby amended to read as follows:

289.500 1. The Peace Officers' Standards and Training Commission, consisting of nine members appointed by the Governor, is hereby created. The Governor shall appoint:

(a) Two members from Clark County, one of whom must be from a metropolitan police department created pursuant to chapter 280 of NRS if one exists in Clark County;

(b) One member from Washoe County;

(c) Three members from counties other than Clark and Washoe Counties;

(d) One member from a state law enforcement agency that primarily employs peace officers required to receive training as category I peace officers;

(e) One member who is a category II peace officer; and

(f) One member who is a category III peace officer.

2. Members of the Commission serve terms of 2 years. Members serve without compensation, but are entitled to the per diem allowance and travel expenses provided ~~[by law]~~ for state officers and employees generally.

3. The Governor shall make the appointments to the Commission from recommendations submitted by Clark County, Washoe County, professional organizations of sheriffs and police chiefs of this State and employee organizations that represent only peace officers of this State who are certified by the Commission.

Sec. 8. NRS 4.050 is hereby amended to read as follows:

4.050 1. When any justice of the peace is entitled to receive his necessary traveling expenses for the transaction of public business, the board of county commissioners shall allow him the same per diem ~~[allowances]~~ *allowance* and travel expenses as are provided for state officers ~~[in the same circumstances by NRS 281.160.]~~ *and employees generally.*

2. Any justice of the peace presenting a claim to the county for any expenses allowed by law shall attach itemized vouchers and receipts for the same to his claim, and the boards of county commissioners of the several counties are prohibited from allowing such claim unless accompanied by vouchers and receipts as required by this section.

Sec. 9. NRS 6.150 is hereby amended to read as follows:

6.150 1. Each person summoned to attend as a grand juror or a trial juror in the district court or justice court is entitled to a fee of $40 for each day after the second day of jury selection that he is in attendance in response to the venire or summons, including Sundays and holidays.

2. Each grand juror and trial juror in the district court or justice court actually sworn and serving is entitled to a fee of $40 a day as compensation for each day of service.

3. In addition to the fees specified in subsections 1 and 2, a board of county commissioners may provide that, for each day of such attendance or service, each person is entitled to be paid ~~[a]~~ *the* per diem allowance ~~[in an amount equal to the allowance for meals]~~ *and travel expenses* provided for state officers and employees generally . ~~[while away from the office and within this State pursuant to subsection 1 of NRS 281.160.]~~

4. Each person summoned to attend as a grand juror or a trial juror in the district court or justice court and each grand juror and trial juror in the district court or justice court is entitled to receive 36.5 cents a mile for each mile necessarily and actually traveled if the home of the person summoned or serving as a juror is 65 miles or more from the place of trial.

5. If the home of a person summoned or serving as such a juror is 65 miles or more from the place of trial and the selection, inquiry or trial lasts more than 1 day, he is entitled to receive an allowance for lodging at the rate ~~[provided by law]~~ *established* for state employees, in addition to his daily compensation for attendance or service, for each day on which he does not return to his home.

6. In civil cases, any fee, per diem allowance , *travel expense* or other compensation due each juror engaged in the trial of the cause must be paid each day in advance to the clerk of the court, or the justice of the peace, by the party who has demanded the jury. If the party paying this money is the prevailing party, the money is recoverable as costs from the losing party. If the jury from any cause is discharged in a civil action without finding a verdict and the party who demands the jury subsequently obtains judgment, the money so paid is recoverable as costs from the losing party.

7. The money paid by a county clerk to jurors for their services in a civil action or proceeding, which he has received from the party demanding the jury, must be deducted from the total amount due them for attendance as such jurors, and any balance is a charge against the county.

Sec. 10. NRS 50.225 is hereby amended to read as follows:

50.225 1. For attending the courts of this State in any criminal case, or civil suit or proceeding before a court of record, master, commissioner, justice of the peace, or before the grand jury, in obedience to a subpoena, each witness is entitled:

(a) To be paid a fee of $25 for each day's attendance, including Sundays and holidays.

(b) Except as otherwise provided in this paragraph, to be paid for attending a court of the county in which he resides at the rate of 19 cents a mile for each mile necessarily and actually traveled from and returning to the place of residence by the shortest and most practical route. A board of county commissioners may provide that, for each mile so traveled to attend a court of the county in which he resides, each witness is entitled to be paid an

amount equal to the allowance for travel by private conveyance ~~[provided]~~ *established by the State Board of Examiners* for state officers and employees generally . ~~[pursuant to subsection 3 of NRS 281.160.]~~ If the board *of county commissioners* so provides, each witness at any other hearing or proceeding held in that county who is entitled to receive the payment for mileage specified in this paragraph must be paid mileage in an amount equal to the allowance for travel by private conveyance ~~[provided]~~ *established by the State Board of Examiners* for state officers and employees generally . ~~[pursuant to subsection 3 of NRS 281.160.]~~

2. In addition to the fee and payment for mileage specified in subsection 1, a board of county commissioners may provide that, for each day of attendance in a court of the county in which he resides, each witness is entitled to be paid ~~[a per diem allowance in an amount equal to]~~ the per diem allowance provided for state officers and employees generally . ~~[while away from the office and within this State pursuant to subsection 1 of NRS 281.160.]~~ If the board *of county commissioners* so provides, each witness at any other hearing or proceeding held in that county who is a resident of that county and who is entitled to receive the fee specified in paragraph (a) of subsection 1, must be paid, in addition to that fee, ~~[a per diem allowance in an amount equal to]~~ the per diem allowance provided ~~[in this subsection.]~~ *for state officers and employees generally.*

3. If a witness is from without the county, or, being a resident of another state, voluntarily appears as a witness at the request of the Attorney General or the district attorney and the board of county commissioners of the county in which the court is held, he is entitled to reimbursement for the actual and necessary expenses for going to and returning from the place where the court is held. He is also entitled to receive the same ~~[allowances for subsistence and lodging]~~ *per diem allowance* as are provided for state officers and employees generally.

4. Any person in attendance at a trial who is sworn as a witness is entitled to the fees, the per diem allowance, if any, travel expenses and any other reimbursement set forth in this section, irrespective of the service of a subpoena.

5. Witness fees, per diem allowances, travel expenses and other reimbursement in civil cases must be taxed as disbursement costs against the defeated party upon proof by affidavit that they have been actually incurred. Costs must not be allowed for more than two witnesses to the same fact or series of facts, and a party plaintiff or defendant must not be allowed any fees, per diem allowance, travel expenses or other reimbursement for attendance as a witness in his own behalf.

6. A person is not obligated to appear in a civil action or proceeding unless he has been paid an amount equal to 1 day's fees, the per diem allowance provided by the board *of county commissioners* pursuant to subsection 2, if any, and the travel expenses reimbursable pursuant to this section.

Sec. 11. NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

(a) If the prisoner is returned to this State from another state, the fees paid to the officers of the state on whose governor the requisition is made;

(b) If the prisoner is returned to this State from a foreign country or jurisdiction, the fees paid to the officers and agents of this State or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this State from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this State,

➥ and the ~~[necessary traveling expenses and subsistence allowances in the amounts authorized by NRS 281.160]~~ *per diem allowance and travel expenses provided for state officers and employees generally* incurred in returning the prisoner.

2. If a person is returned to this State pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty or nolo contendere to the criminal charge for which he was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062.

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning him to this State. The court shall not order the person to make restitution if payment of restitution will prevent him from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of his sentence.

4. The Attorney General may adopt regulations to carry out the provisions of this section.

Sec. 12. NRS 218.220 is hereby amended to read as follows:

218.220 1. The per diem expense allowance and the travel and telephone expenses of Senators and Assemblymen elected or appointed and in attendance at any session or presession orientation conference of the Legislature must be allowed in the manner set forth in this section.

2. For initial travel from his home to Carson City, Nevada, to attend a session or presession orientation conference of the Legislature, and for return travel from Carson City, Nevada, to his home upon adjournment sine die of a session or termination of a presession orientation conference of the Legislature, each Senator and Assemblyman is entitled to receive:

(a) A per diem expense allowance, not to exceed the maximum rate established by the Federal Government for the Carson City area, for 1 day's travel to and 1 day's travel from the session or conference.

(b) Travel expenses.

3. In addition to the per diem and travel expenses authorized by subsection 2, each Senator and Assemblyman is entitled to receive a supplemental allowance which must not exceed:

(a) A total of $10,000 during each regular session of the Legislature for:

(1) His actual expenses in moving to and from Carson City for the session;

(2) Travel to and from his home or temporary residence or for traveling to and from legislative committee and subcommittee meetings or hearings or for individual travel within the State which relates to legislative business;

(3) If he rents furniture for his temporary residence rather than moving similar furniture from his home, the cost of renting that furniture not to exceed the amount that it would have cost to move the furniture to and from his home; and

(4) If:

(I) His home is more than 50 miles from Carson City; and

(II) He maintains temporary quarters in or near Carson City for which he has entered into a lease or other agreement for occupancy during a regular legislative session,

➥ the cost of such additional housing, paid at the end of each month during the legislative session, beginning the month of the first day of the legislative session and ending the month of the adjournment sine die of the legislative session, in an amount that is the fair market rent for a one bedroom unit in Carson City as published by the United States Department of Housing and Urban Development prorated for the number of days of the month that he actually maintained the temporary quarters in or near Carson City. For the purposes of this subparagraph, any day before the first day of the legislative session or after the day of the adjournment sine die of the legislative session may not be counted as a day for which he actually maintained such temporary quarters; and

(b) A total of $1,200 during each special session of the Legislature for travel to and from his home or temporary residence or for traveling to and

from legislative committee and subcommittee meetings or hearings or for individual travel within the State which relates to legislative business.

4. Each Senator and Assemblyman is entitled to receive a per diem expense allowance, not to exceed the maximum rate established by the Federal Government for the Carson City area, for each day that the Legislature is in session or in a presession orientation conference and for each day that he attends a meeting of a standing committee of which he is a member when the Legislature has adjourned for more than 4 days.

5. Each Senator and Assemblyman who maintains temporary quarters in or near Carson City for which he has entered into a lease or other agreement for continuous occupancy for the duration of a legislative session is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 14 days in each period in which:

(a) The Legislature has adjourned until a time certain; and

(b) The Senator or Assemblyman is not entitled to a per diem expense allowance pursuant to subsection 4.

6. In addition to the per diem expense allowance authorized by subsection 4 and the lodging allowance authorized by subsection 5, each Senator and Assemblyman who maintains temporary quarters in or near Carson City for which he has entered into a lease or other agreement for continuous occupancy for the duration of a legislative session is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 17 days in each period in which:

(a) The Legislature has adjourned for more than 4 days; and

(b) The Senator or Assemblyman must obtain temporary lodging in a location that a standing committee of which he is a member is meeting.

7. Each Senator and Assemblyman is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 6 days in each period in which:

(a) The Legislature has adjourned for more than 4 days; and

(b) The Senator or Assemblyman must obtain temporary lodging in a location that a standing committee of which he is a member is meeting,

➥ if the Senator or Assemblyman is not entitled to the per diem expense allowance authorized by subsection 4 or the lodging allowances authorized by subsections 5 and 6.

8. Each Senator and Assemblyman is entitled to receive a telephone allowance of not more than $2,800 for the payment of tolls and charges incurred by him in the performance of official business during each regular session of the Legislature and not more than $300 during each special session of the Legislature.

9. An employee of the Legislature assigned to serve a standing committee is entitled to receive the travel expenses and per diem ~~[expense]~~

allowance provided ~~[by law]~~ for state *officers and* employees generally if he is required to attend a hearing of the committee outside Carson City.

10. Claims for per diem expense allowances authorized by subsection 4 and lodging allowances authorized by subsections 5, 6 and 7 must be paid once each week during a legislative session and upon completion of a presession orientation conference.

11. A claim for travel expenses authorized by subsection 2 or 3 must not be paid unless the Senator or Assemblyman submits a signed statement affirming:

(a) The date of the travel; and

(b) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

12. Travel expenses authorized by subsections 2 and 3 are limited to:

(a) If the travel is by private conveyance, a rate equal to the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax. If two or more Legislators travel in the same private conveyance, the Legislator who provided or arranged for providing the transportation is presumed entitled to reimbursement.

(b) If the travel is not by private conveyance, the actual amount expended.

➥ Transportation must be by the most economical means, considering total cost, time spent in transit and the availability of state-owned automobiles.

Sec. 13. NRS 245.060 is hereby amended to read as follows:

245.060 If a county or township officer or an employee of the county is entitled to receive reimbursement for his necessary traveling expenses for the transaction of public business, such reimbursement must include actual living expenses, but the amount allowed for traveling by private conveyance must not exceed the amount charged by public conveyance. Where it appears to the satisfaction of the board of county commissioners that travel by private conveyance is more economical, or where it appears that, owing to train, airplane or bus schedules or for other reasons, travel by public conveyance is impractical, or in case a part of the route traveled is not covered by public conveyance, the board of county commissioners, in its discretion, may allow for traveling by private conveyance an amount not to exceed the maximum per-mile allowance for travel by private conveyance ~~[of]~~ *established by the State Board of Examiners for* state officers and employees ~~[specified in subsection 3 of NRS 281.160.]~~ *generally*.

Sec. 14. NRS 258.050 is hereby amended to read as follows:

258.050 1. When any constable shall be entitled to receive his necessary traveling expenses for the transaction of public business, such expenses shall include his actual living expenses, but the amount allowed for traveling by private conveyance shall not exceed the amount charged by public conveyance.

2. Where it appears to the satisfaction of the board of county commissioners that travel by private conveyance is more economical, or where it appears that, owing to train, airplane or bus schedule or for other reasons, travel by public conveyance is impractical, or in case a part of the route traveled is not covered by public conveyance, the board of county commissioners is authorized to allow for traveling by private conveyance an amount not to exceed the maximum per-mile allowance for travel by private conveyance ~~[of]~~ *established by the State Board of Examiners for* state officers and employees ~~[specified in subsection 3 of NRS 281.160.]~~ *generally*.

3. Any constable presenting a claim to the county for any expenses allowed by law shall attach itemized vouchers and receipts for the same to his claim, and the boards of county commissioners of the several counties are hereby prohibited from allowing such claim unless accompanied by vouchers and receipts as required by this section.

Sec. 15. NRS 272.030 is hereby amended to read as follows:

272.030 1. Any city or town which shall join or which shall help form such an organization, as is authorized by NRS 272.010, may appropriate through its governing body out of its general fund money to pay the annual dues in the joint municipal organization and the expenses of such delegates as the governing body may designate to attend meetings of any such organization.

2. If the governing body of the particular city or town has so appropriated money as hereinabove provided for, then delegates shall receive the per diem ~~[expense]~~ allowance and travel expenses ~~[as fixed by law]~~ *provided* for state ~~[offices, departments, boards, agencies and institutions.]~~ *officers and employees generally.*

Sec. 16. NRS 386.290 is hereby amended to read as follows:

386.290 1. In addition to salaries allowed under NRS 386.320 a trustee shall be allowed:

(a) His traveling expenses for traveling each way between his home and the place where board meetings are held at the rate ~~[authorized by law]~~ *provided* for state officers ~~[.]~~ *and employees generally.*

(b) His living expenses necessarily incurred while in actual attendance at board meetings at the rate ~~[authorized by law]~~ *provided* for state officers ~~[.]~~ *and employees generally.*

2. Claims for mileage and per diem allowances shall be allowed and paid in the same manner as other claims against the school district fund are paid, but no claim for mileage and per diem allowances for living expenses shall be allowed or paid to a trustee residing not more than 5 miles from the place where board meetings are held.

Sec. 17. NRS 386.345 is hereby amended to read as follows:

386.345 1. The board of trustees of a school district may:

(a) Acquire and maintain membership in county, state and national school board associations and pay dues to such associations.

(b) Pay the travel expenses and per diem allowances of trustees at the same rate ~~[authorized by law]~~ *provided* for state officers *and employees generally* when the trustees attend county, state or national school board association meetings.

2. Claims for dues, travel expenses and per diem allowances authorized in subsection 1 shall be presented and allowed as provided by law for other claims against the school district.

Sec. 18. NRS 387.319 is hereby amended to read as follows:

387.319 1. Any travel by trustees of the school district, other than as provided for in NRS 386.290, required for the transaction of official business of the school district shall first be authorized by the board of trustees. When such travel is authorized, trustees of the school district shall receive the travel expenses and per diem allowances ~~[authorized by law]~~ *provided* for state officers ~~[.]~~ *and employees generally.*

2. Claims for travel expenses and per diem allowances authorized in subsection 1 shall be presented and allowed as provided by law for other claims against the school district.

Sec. 19. NRS 396.070 is hereby amended to read as follows:

396.070 1. Each member of the Board of Regents is entitled to receive a salary of $80 for each meeting of the Board that he attends.

2. Each member of the Board of Regents is entitled to receive in attending meetings of the Board, or while on Board of Regents' business within the State:

(a) A per diem expense allowance not to exceed the greater of:

(1) The rate of $60; or

(2) The maximum rate established by the Federal Government for the locality in which the travel is performed.

(b) ~~[A]~~ *The* travel allowance ~~[computed at the rate]~~ provided for state officers and employees generally . ~~[in subsection 3 of NRS 281.160.]~~

3. If an account is established for a member of the Board of Regents to pay for hosting expenditures of the member:

(a) The annual expenditures from the account may not exceed $2,500.

(b) The account may be used only to pay for activities that are directly related to the duties of the member of the Board of Regents, including reasonable expenses for meals, beverages and small gifts. The account must not be used to pay for expenses associated with attending a sporting event or a political fundraising event.

(c) The member of the Board of Regents must submit a monthly report of expenditures from the account to the Chancellor of the System. The report must include, without limitation, the amount of money expended from the account, the specific purpose and activity for which the money was expended and, if applicable, the person for whom the money was expended.

(d) The Chancellor of the System shall compile the monthly reports into an annual report on or before January 30 of each year. The monthly reports

and annual reports are public records and must be made available for public inspection.

4. As used in this section, "hosting expenditures" means reasonable expenses by or on behalf of a member of the Board of Regents who is conducting business activities necessary to provide a benefit to the System by establishing goodwill, promoting programs of the System or otherwise advancing the mission of the System.

Sec. 20. NRS 412.124 is hereby amended to read as follows:

412.124 1. The Adjutant General, with the approval of the Governor, may order members of the Nevada National Guard to active duty. Members, while on active duty, are entitled to receive the pay and allowances of their corresponding grades in the Armed Forces of the United States, but in no case may the pay and allowances be less than $50 per day.

2. Members of the Nevada National Guard serving on courts-martial, courts of inquiry, efficiency boards, medical boards or other special duty requiring absence from their stations or business under competent orders may ~~[be reimbursed for necessary expenses incurred at the rate established]~~ *receive the per diem allowance and travel expenses provided* for state *officers and* employees ~~[by NRS 281.160.]~~ *generally*.

3. In lieu of other provisions of this chapter, such amounts as are approved by the Governor may be paid to a medical examiner for his services and necessary disbursements and to a properly appointed judge advocate for legal services and necessary disbursements in any suit, action or proceeding.

4. Members of the Nevada National Guard may not receive from the State the pay or the pay and allowances provided by this section when they are eligible for similar pay and allowances from federal funds.

5. Members of the Nevada National Guard may with their consent perform without pay or without pay and allowances in parades or ceremonial events, or any of the types of military duty prescribed in this chapter pursuant to orders issued by competent military authority. Necessary traveling expenses, subsistence and per diem allowances may be furnished the members within the discretion of the Adjutant General and within the amount appropriated therefor.

6. All pay and allowances provided by this chapter, except per diem allowances, mileage and expenses while traveling under orders, are subject to be applied to the payment of penalties and fines imposed by military courts, and to the payment of any shortage of funds or for injury to state or federal property for which a member of the Nevada National Guard is responsible or accountable where the responsibility has been fixed by competent authority.

Sec. 21. NRS 459.706 is hereby amended to read as follows:

459.706 1. The Department shall not issue a permit required pursuant to NRS 459.7052 to a motor carrier who is seeking to transport radioactive waste upon a public highway of this State without first determining that the carrier transporting the waste is in compliance and will continue to comply with all laws and regulations of this State and the Federal Government

respecting the handling and transportation of radioactive waste and the safety of drivers and vehicles.

2. Any motor carrier who maintains his books and records outside of this State must, in addition to any other assessments and fees provided by law, be assessed by the Department for an amount equal to the *per diem allowance and* travel expenses ~~[, including the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160,]~~ of employees of the Department for investigations, inspections and audits which may be required to be performed outside of this State in carrying out the provisions of subsection 1. *The per diem allowance and travel expenses of the employees of the Department must be assessed at the rate established by the State Board of Examiners for state officers and employees generally.*

3. The assessment provided for in subsection 2 must be determined by the Department upon the completion of each such investigation, inspection or audit and is due within 30 days after the date on which the affected motor carrier receives the assessment. The records of the Department relating to the additional costs incurred by reason of necessary travel must be open for inspection by the affected carrier at any time within the 30-day period.

Sec. 22. NRS 703.145 is hereby amended to read as follows:

703.145 1. Any public utility subject to the jurisdiction of the Commission which elects to maintain its books and records outside the State of Nevada ~~[shall,]~~ *must,* in addition to any other assessment and fees provided for by law, be assessed by the Commission for an amount equal to the *per diem allowance and* travel expenses ~~[and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160,]~~ of Commission members and staff ~~[,]~~ for investigations, inspections and audits required to be performed outside this State. *The per diem allowance and travel expenses of the members of the Commission and its staff must be assessed at the rate established by the State Board of Examiners for state officers and employees generally.*

2. Any public utility subject to the jurisdiction of the Commission ~~[shall,]~~ *must,* in addition to any other assessment and fees provided for by law, be assessed by the Commission for an amount equal to the *per diem allowance and* travel expenses ~~[and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160,]~~ of Commission members and staff ~~[,]~~ for investigations, audits and appearances required to be performed out of this State as a result of interventions in:

(a) Federal Energy Regulatory Commission proceedings as authorized in NRS 703.152; or

(b) Actions involving the Federal Communications Commission or other federal regulatory agencies,

➥ if the intervention is made to benefit the public utility or its customers. *The per diem allowance and travel expenses of the members of the*

Commission and its staff must be assessed at the rate established by the State Board of Examiners for state officers and employees generally.

3. The assessments provided for by this section must be determined by the Commission upon the completion of each such investigation, inspection, audit or appearance and are due and payable within 30 days of receipt by the affected utility of the notice of assessment. The total amount assessed by the Commission in 1 year pursuant to subsection 2 must not exceed $50,000.

4. The records of the Commission relating to the additional costs incurred by reason of the necessary additional travel must be open for inspection by the affected utility at any time within the 30-day period.

5. The Commission shall report to the Legislature no later than February 1 of each odd-numbered year the amount of assessments charged public utilities during the previous biennium pursuant to subsection 2.

Sec. 23. NRS 706.1515 is hereby amended to read as follows:

706.1515 1. Any common or contract carrier subject to the jurisdiction of the Authority that elects to maintain its books and records outside the State of Nevada ~~[shall,]~~ *must,* in addition to any other assessment and fees provided for by law, be assessed by the Authority for an amount equal to the *per diem allowance and* travel expenses ~~[and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances, as fixed by NRS 281.160,]~~ of members of the Authority and staff ~~[,]~~ for investigations, inspections and audits required to be performed outside this State. *The per diem allowance and travel expenses of the members of the Authority and its staff must be assessed at the rate established by the State Board of Examiners for state officers and employees generally.*

2. The assessments provided for by this section must be determined by the Authority upon the completion of each such investigation, inspection, audit or appearance and are due within 30 days after receipt by the affected common or contract carrier of the notice of assessment.

3. The records of the Authority relating to the additional costs incurred by reason of the necessary additional travel must be open for inspection by the affected common or contract carrier at any time within the 30-day period.

Sec. 24. Section 9.145 of the Charter of the City of Sparks, being chapter 350, Statutes of Nevada 1987, at page 789, is hereby amended to read as follows:

Sec. 9.145 Hearings: Fees, mileage and expenses of witnesses.

1. All witnesses appearing pursuant to subpoena, other than parties or officers or employees of the City, are entitled to receive fees and mileage in the same amounts and under the same circumstances as prescribed in NRS 50.225.

2. Witnesses entitled to fees or mileage who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day are entitled, in addition to fees and mileage, to the per diem allowance provided ~~[in NRS 281.160]~~ for state officers and employees *generally* for

each day of actual attendance and for each day necessarily occupied in traveling to and from the hearings.

3. Fees for mileage and per diem allowances must be paid by the party at whose request the witness is subpoenaed. The Civil Service Commission or hearing officer may award as costs the amount of such expenses to the prevailing party.

Sec. 25. Section 11 of the Elko Convention and Visitors Authority Act, being chapter 227, Statutes of Nevada 1975, as last amended by chapter 564, Statutes of Nevada 1989, at page 1197, is hereby amended to read as follows:

Sec. 11. 1. The Board shall submit its proposed annual budget for the Authority in the manner set forth in NRS 354.470 to 354.626, inclusive.

2. In addition to powers elsewhere conferred, the Board, on behalf of the Authority, may:

(a) Establish, construct, purchase, lease, enter into a lease purchase agreement respecting, acquire by gift, grant, bequest, devise or otherwise, reconstruct, improve, extend, better, alter, repair, equip, furnish, regulate, maintain, operate and manage convention, exhibit and auditorium facilities, including personal property and real property, appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein.

(b) Insure or provide for the insurance of any facility and of the Board and its officers, employees and agents against such risks and hazards as the Board may deem advisable, without thereby waiving any immunity granted by law.

(c) Arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, food, beverages, alcoholic beverages or facilities for or in connection with a facility, hire and retain officers, agents and employees, including a fiscal adviser, engineers, attorneys or other professional or specialized personnel.

(d) Direct the Board of County Commissioners or the Board of Supervisors of the City of Elko, and the governing body of any other political subdivision within the boundaries of the Authority, with the concurrence of that board or body, to acquire by the exercise of the power of eminent domain any real property which the Board deems necessary for its purposes, after the adoption by the Board of a resolution declaring such acquisition necessary for its purposes. This power must be exercised in the manner provided by any applicable statutory provisions and laws of the State of Nevada. Title to property so acquired must be taken in the name of the Authority.

(e) Sell, lease, exchange, transfer, assign or otherwise dispose of any real or personal property, or any interest therein acquired for the purpose of this act, including the lease of any facility acquired by the Authority which is to be operated and maintained as a public project and convention, auditorium or exhibit facility.

(f) Fix, and from time to time increase or decrease, rates, tolls, rents or charges for services or facilities furnished in connection with any facility and take such action as necessary or desirable to effect their collection.

(g) Receive, control, invest and order the expenditure of money pertaining to any facility or related properties, including but not limited to annual grants from the Federal Government, the State, the county and incorporated cities in the county for capital improvements for facilities.

(h) Enter into contracts, leases or other arrangements for commercial advertising purposes with any person or government.

(i) Exercise all or any part or combination of the powers granted in this act to the Authority, except as otherwise provided in this act.

(j) Sue and be sued.

(k) Perform other acts necessary, convenient, desirable or appropriate to carry out the purposes and provisions of this act.

(l) Engage in the sale and dispensing of alcoholic beverages in connection with activities conducted in connection with the facility, operate a bar in connection therewith and obtain all necessary licenses and permits and provide any bonds or security necessary or advisable.

(m) Engage in the preparation, sale, serving and dispensing of food and beverages in connection with the facilities and activities conducted in connection therewith.

(n) Provide security for all authorized facilities and activities by means of security guards, burglar alarm systems, fire alarm systems and other modern methods of protection and detection, with all materials, supplies and equipment incidental thereto.

(o) Use or make available all facilities of the Authority or any portion thereof for any event, activity, meeting, convention, entertainment, promotions, party or other purpose approved by the Board, with or without charge, as determined by the Board.

(p) Sell, or cause to be sold, promotional items.

3. The Board, in addition to the other powers conferred upon it, may:

(a) Set aside a fund in an amount which it considers necessary, which may be expended in the discretion of the Board for the purpose of promoting or attracting conventions, meetings and like gatherings which will utilize the facilities of the Authority. Such an expenditure shall be deemed to be made for a public purpose.

(b) Solicit and promote tourism generally, individually and through annual grants to chambers of commerce, convention authorities and other convention generating entities, and further promote generally the use of its facilities, pursuant to lease agreements, by organized groups or by the general public for the holding of conventions, expositions, trade shows, entertainment, sporting events, cultural activities or similar uses reasonably calculated to produce revenue for the Authority, and to enhance the general economy. Such promotion may include advertising the facilities under control of the Board and the resources of the community or area, including

without restriction tourist accommodations, transportation, entertainment and climate.

(c) Enter into contracts for advertising and pay the cost thereof, including reasonable commissions.

(d) Authorize the expenditure of money subject to its control and derived from any source within its jurisdiction and authority, regardless of any purported limitations thereon incident to any transfer or remittance to the Board of the proceeds of any license tax or other money collected by any political subdivision, but subject to all valid contractual or statutory restrictions which may apply to any such money or remittances or to the use or disposition thereof.

(e) Borrow money or accept contributions, grants or other financial assistance from the Federal Government or any agency or instrumentality thereof, for use in furtherance of any of the authorized purposes of the Authority and meet and comply with any conditions imposed thereon, which are within the authority or discretion of the Board.

(f) Appoint an Executive Director, the Authority Treasurer, the Auditor for the Authority, assistants to officers and establish such other offices and appoint such other officers as it deems necessary. All appointive officers serve at the pleasure of the Board and shall perform such duties as may be designated by the Board and are entitled to receive a salary set by the Board. The Board shall, by agreement pursuant to chapter 288 of NRS, or by resolution, set the annual, sick and disability leave, salary or wages, pensions, insurance and other benefits for appointed and hired Authority officers and employees.

4. Any contracts, leases, franchises or other transactions authorized or executed by the Board are not affected by the fact that the term of office of any or all of its members may expire before completion of the transaction authorized.

5. When any member of the Board or officer or employee of the Authority travels for the transaction of business of the Authority, the Board may pay him the actual expenses necessary for such travel, including travel expenses, room, board, gratuities, car rental, telephone, taxi fares and any other expense reasonably incurred in connection with such travel. Travel fares must be the amount charged by public conveyance unless the Board determines that travel by private conveyance is more economical, or travel by public conveyance is impractical or unavoidable over any of the routes to be traveled. The Board may allow for traveling by private conveyance an amount not to exceed the maximum allowance per mile for travel by private conveyance *established* by *the State Board of Examiners for* state officers and employees ~~[specified in NRS 281.160.]~~ *generally.*

Sec. 26. This act becomes effective on July 1, 2007.

Senator Beers moved the adoption of the amendment.

Remarks by Senator Beers.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 221.

Bill read second time.

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

Amendment No. 416.

"SUMMARY—Revises provisions relating to the development and implementation of health care policy in this State. (BDR 40-307)"

"AN ACT relating to health care; creating the Office of Health Planning, Analysis and Policy Support in the Department of Health and Human Services and establishing its duties; ~~[creating an Advisory Committee to the Office and establishing its duties;]~~ requiring the Office to conduct certain research concerning health care; ~~[creating the Steering Committee for e-Health and establishing its duties; creating the Advisory Committee on the Regulation of Providers of Health Care in Nevada;]~~ *requiring the Legislative Committee on Health Care to appoint a subcommittee to conduct a study of the regulation of providers of health care in Nevada;* making appropriations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill creates the Office of Health Planning, Analysis and Policy Support in the Department of Health and Human Services. The Office is responsible for ~~[coordinating]~~ *providing information to assist in* the development of health policy for this State by: (1) conducting policy analysis on health care issues; (2) collecting and disseminating information concerning the quality and cost of health care; and (3) conducting community needs analyses. ~~[Section 3 of this bill creates an Advisory Committee to provide technical expertise and consumer advice and recommendations to the Office.]~~

Section 5 of this bill makes an appropriation of ~~[$3,230,000 to the Department of Health and Human Services to support the activities of the Office and the Advisory Committee.]~~ *$2,177,006 to the Department of Administration to pay the costs of establishing a medical and health records storage data warehouse.*

Section 6 of this bill makes an appropriation of ~~[$3,400,000]~~ *$1,000,000* to the Nevada System of Higher Education to support ~~[activities to enhance the development of the health care workforce and to provide incentives to attract and retain health care professionals.]~~ *the program to provide loans to nursing students and the Nevada Health Service Corps.*

Section 7 of this bill ~~[requires the Office of Health Planning, Analysis and Policy Support to conduct investigations concerning certain health care issues and to report the results to the Legislative Committee on Health Care.]~~ *appropriates $270,163 to the Health Division of the Department of Health*

and Human Services for staff to support the medical and health records data warehouse.

~~[Section 8 of this bill creates a Steering Committee for e-Health which is required to establish a plan for the development of health information technology and health information exchange in this State.]~~

Section 9 of this bill ~~[creates an Advisory Committee on the Regulation of Providers of Health Care in Nevada]~~ *requires the Legislative Committee on Health Care to appoint a subcommittee* to conduct: (1) a review of the laws of this State that establish the scope of practice authorized for providers of health care; and (2) a study concerning the operation of the professional licensing boards for providers of health care with respect to barriers to licensing.

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

Section 1. Chapter 439A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *The Office of Health Planning, Analysis and Policy Support is hereby created in the Department. The Office shall:*

1. ~~[Coordinate]~~ Provide information to assist in the development of health care policy for this State by:

(a) Conducting policy analysis on issues relating to health care; and

(b) ~~[Preparing, at least biennially, a]~~ Updating the state health plan.

2. Collect and disseminate information concerning the quality and cost of health care.

3. Conduct analyses of community health care needs to assess the general health of specific populations in communities throughout this State and develop benchmarks for community health care to measure changes in the health care system in those communities.

Sec. 3 ~~*[1. The Advisory Committee for the Office of Health Planning, Analysis and Policy Support is hereby created. The Advisory Committee consists of seven members who are appointed as follows:*~~

~~*(a) Three members appointed by the Governor;*~~

~~*(b) Two members appointed by the Majority Leader of the Senate; and*~~

~~*(c) Two members appointed by the Speaker of the Assembly.*~~

~~*2. Members appointed to the Advisory Committee must, to the extent practicable, reflect the ethnic, racial and geographical diversity of this State and include at least two members who represent the interests of medically underserved populations.*~~

~~*3. One member of the Advisory Committee must be a provider of health care who has knowledge or expertise in one or more of the following:*~~

~~*(a) The planning and analysis of health care policy;*~~

~~*(b) Planning relating to public health;*~~

~~*(c) Medical quality assurance;*~~

~~*(d) The analysis of issues concerning disparities in the delivery of health care to specific populations; or*~~

~~(c) The analysis of issues relating to the health care workforce.~~

~~4. After the initial terms, the term of a member of the Advisory Committee is 2 years. A member may be reappointed. A vacancy on the Advisory Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.~~

~~5. A majority of the members of the Advisory Committee constitutes a quorum for the transaction of business, and a majority of the members of a quorum present at any meeting is sufficient for any official action taken by the Advisory Committee.~~

~~6. The Advisory Committee shall:~~

~~(a) At its first meeting and annually thereafter, elect one of its members to serve as Chairman; and~~

~~(b) Meet four times a year at the call of the Chairman.~~

~~7. The members of the Advisory Committee serve without compensation, but while engaged in the business of the Advisory Committee are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~8. A member of the Advisory Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee and perform any work necessary to carry out the duties of the Advisory Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Advisory Committee to make up the time he is absent from work to carry out his duties as a member of the Advisory Committee or use annual vacation or compensatory time for the absence.~~

~~9. The Advisory Committee shall provide to the Office of Health Planning, Analysis and Policy Support:~~

~~(a) Technical expertise in matters relating to health care; and~~

~~(b) Advice and recommendations from consumers of health care.]~~ *(Deleted by amendment.)*

Sec. 4. NRS 439A.081 is hereby amended to read as follows:

439A.081 1. The Department is the agency of the State of Nevada for health planning and development, and shall carry out the state administrative program and perform the functions of health planning and development for the State in accordance with the following priorities:

(a) Providing for the effective use of methods for controlling increases in the cost of health care;

(b) Providing for the adequate supply and distribution of health resources;

(c) Providing for equal access to health care of good quality at a reasonable cost; and

(d) Providing education to the public regarding proper personal health care and methods for the effective use of available health services.

2. In order to carry out the provisions of this chapter, the Director may:

(a) Delegate the duties of the Director and the Department pursuant to this chapter to any of the divisions of the Department ~~[;]~~ *or the Office of Health Planning, Analysis and Policy Support;*

(b) Hire employees in the classified service;

(c) Adopt such regulations as are necessary; and

(d) Apply for, accept and disburse money granted by the Federal Government for the purposes of health planning and development.

3. The Department may, by regulation, fix fees to be collected from applicants seeking approval of proposed health facilities or services. The amounts of such fees must be based upon the Department's costs of examining and acting upon the applications.

4. In developing and revising any state plan for health planning and development, the Department shall consider, among other things, the amount of money available from the Federal Government for health planning and development and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for health planning and development.

Sec. 5. 1. There is hereby appropriated from the State General Fund to the Department of ~~[Health and Human Services the sum of $3,230,000 to be allocated as follows:~~

~~(a) For the support of the Office of Health Planning, Analysis and Policy Support created pursuant to section 2 of this act:~~

~~For the Fiscal Year 2007-2008.....$1,040,000~~

~~For the Fiscal Year 2008-2009.....$1,040,000~~

~~(b) To carry out the duties of the Office of Health Planning, Analysis and Policy Support set forth in section 7 of this act, the sum of $800,000.~~

~~(c) For the support of the Steering Committee for e-Health created pursuant to section 8 of this act, the sum of $350,000.]~~ *Administration the sum of $2,177,006 to pay the costs of establishing a medical and health records storage data warehouse.*

2. Any ~~[balance of the sums appropriated by paragraph (a) of subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.~~

~~3. Any]~~ remaining balance of the ~~[appropriations]~~ *appropriation* made by ~~[paragraphs (b) and (c) of]~~ subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or

otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 6. 1. There is hereby appropriated from the State General Fund to the Nevada System of Higher Education, the sum of ~~[$3,400,000]~~ *$1,000,000* to be allocated as follows:

(a) To support ~~[activities to enhance the development of the health care workforce:]~~ *the program to provide loans to nursing students pursuant to NRS 396.890 to 396.898, inclusive:*

For the Fiscal Year 2007-2008..... ~~[$1,200,000]~~ *$250,000*

For the Fiscal Year 2008-2009..... ~~[$1,200,000]~~ *$250,000*

(b) To ~~[conduct activities concerning incentives to attract and retain health care professionals:]~~ *support the Nevada Health Service Corps established pursuant to NRS 396.899 to 396.903, inclusive:*

For the Fiscal Year 2007-2008..... ~~[$500,000]~~ *$250,000*

For the Fiscal Year 2008-2009..... ~~[$500,000]~~ *$250,000*

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 7. ~~[The Office of Health Planning, Analysis and Policy Support created pursuant to section 2 of this act shall:~~

~~1. Conduct an examination of the federal Deficit Reduction Act of 2005, Public Law 109-171, to identify opportunities to improve the delivery of health care to:~~

~~(a) Persons who require long-term care;~~

~~(b) Persons with serious mental illness; and~~

~~(c) Children with serious emotional disturbances.~~

~~2. Create a task force to study issues relating to the redesign of the system for providing long-term health care. The task force must, not later than May 1, 2008, submit a report of the results of its study and any recommendations for legislation to the Office of Health Planning, Analysis and Policy Support.~~

~~3. Conduct an examination of the available methods for restructuring the system for providing appropriate health care to persons with mental, emotional or behavioral disorders.~~

~~4. Not later than June 30, 2008, submit to the Legislative Committee on Health Care the report of the task force, the results of the examinations conducted pursuant to this section and any recommendations for legislation.~~]

1. There is hereby appropriated from the State General Fund to the Health Division of the Department of Health and Human Services to hire staff to administer the medical and health records storage data warehouse established pursuant to section 5 of this act:

For the Fiscal Year 2007-2008 ..... *$58,699*

For the Fiscal Year 2008-2009 ..... *$211,464*

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 8. ~~[1. The Steering Committee for e-Health is hereby created.~~

~~2. The Governor shall establish the membership of the Steering Committee and, as soon as practicable after July 1, 2007, appoint its members. The members of the Steering Committee must, to the extent practicable, represent the interests of:~~

~~(a) Physicians, nurses and other providers of health care;~~

~~(b) Hospitals and other health care facilities;~~

~~(c) The pharmaceutical industry;~~

~~(d) Consumers of health care;~~

~~(e) Employers and unions;~~

~~(f) The scientific and academic community; and~~

~~(g) The State of Nevada, its political subdivisions and agencies, including, without limitation, the Office of Health Planning, Analysis and Policy Support created pursuant to section 2 of this act and the Department of Information Technology.~~

~~3. The members of the Steering Committee serve without compensation, but while engaged in the business of the Steering Committee are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~4. A member of the Steering Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for~~

~~and attend meetings of the Steering Committee and perform any work necessary to carry out the duties of the Steering Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Steering Committee to make up the time he is absent from work to carry out his duties as a member of the Steering Committee or use annual vacation or compensatory time for the absence.~~

~~5. The Steering Committee shall establish a plan for the development of health information technology and health information exchange. The plan must include, without limitation:~~

~~(a) Recommendations for a permanent governing body to supervise the development of health information technology and health information exchange in this State, and the implementation of the plan;~~

~~(b) Priorities for health information technology and health information exchange;~~

~~(c) The identification of financial barriers and other barriers that may prevent the implementation of the plan and any recommendations for overcoming those barriers;~~

~~(d) Recommendations for legislation to protect the privacy of persons and the security of health information;~~

~~(e) Methods for including existing initiatives for health information technology and health information exchange in the plan; and~~

~~(f) A preliminary program for implementing the plan that establishes goals and timetables and identifies the persons, agencies and organizations that are responsible for achieving those goals.~~

~~6. The Office of Health Planning, Analysis and Policy Support shall provide such staff and other support as is necessary for the Steering Committee to carry out the provisions of this section.~~

~~7. The Steering Committee shall, not later than May 1, 2008, submit its plan and any recommendations for legislation to the Office of Health Planning, Analysis and Policy Support.]~~ *(Deleted by amendment.)*

Sec. 9. 1. ~~[There is hereby created the Advisory Committee on the Regulation of Providers of Health Care in Nevada. The Advisory Committee consists]~~ *The Legislative Committee on Health Care shall appoint a subcommittee to review the regulation of providers of health care in Nevada. The subcommittee must consist* of:

(a) Two members of the Legislative Committee on Health Care appointed by the Chairman of that Committee;

(b) The Chairman of the Senate Standing Committee on Human Resources and Education;

(c) A member of the Senate Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee;

(d) The Chairman of the Assembly Standing Committee on Health and Human Services; and

(e) A member of the Assembly Standing Committee on Commerce and Labor during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee.

2. The Chairman of the Legislative Committee on Health Care shall designate a member of the ~~[Advisory Committee]~~ *subcommittee* to serve as Chairman.

3. ~~[Except during a regular or special session of the Legislature, for each day or portion of a day during which a member of the Advisory Committee attends a meeting of the Advisory Committee or is otherwise engaged in the work of the Advisory Committee, he is entitled to receive the:~~

~~(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session;~~

~~(b) Per diem allowance provided for state officers and employees generally; and~~

~~(c) Travel expenses provided pursuant to NRS 218.2207.~~

~~4. The compensation, per diem allowances and travel expenses of the members of the Advisory Committee must be paid from the Legislative Fund.~~

~~5. The Advisory Committee]~~ *The subcommittee* shall:

(a) Conduct:

(1) A review of the laws of this State relating to the scope of practice authorized for providers of health care.

(2) A study concerning the operation of the professional licensing boards for providers of health care with respect to barriers to licensing.

(b) Not later than June 30, 2008, submit a report of the results of its review and study and any recommendations for legislation to the Legislative Committee on Health Care.

~~[6. The Advisory Committee]~~

4. The subcommittee may contract with such experts, researchers and consultants as may be necessary for the ~~[Advisory Committee]~~ *subcommittee* to carry out its duties.

Sec. 10. ~~[As soon as practicable after July 1, 2007, the members of the Advisory Committee for the Office of Health Planning, Analysis and Policy Support created pursuant to section 3 of this act must be appointed as follows:~~

~~1. The Governor shall appoint:~~

~~(a) One member to serve an initial term that expires on June 30, 2008.~~

~~(b) Two members to serve initial terms that expire on June 30, 2009.~~

~~2. The Majority Leader of the Senate shall appoint:~~

~~(a) One member to serve an initial term that expires on June 30, 2008.~~

~~(b) One member to serve an initial term that expires on June 30, 2009.~~

~~3. The Speaker of the Assembly shall appoint:~~

~~(a) One member to serve an initial term that expires on June 30, 2008.~~

~~(b) One member to serve an initial term that expires on June 30, 2009.]~~ *(Deleted by amendment.)*

Sec. 11. 1. This ~~[act becomes effective on July 1, 2007.~~

~~2. Sections 8 and 9 of this act expire by limitation on June 30, 2008.]~~ *section and section 5 of this act become effective upon passage and approval.*

2. Sections 1 to 4, inclusive, and 6 to 10, inclusive, of this act become effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Senator Raggio moved that Senate Bill No. 221 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 237.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 165.

"SUMMARY—Revises certain provisions governing permits to carry concealed firearms. (BDR 15-47)"

"AN ACT relating to concealed firearms; authorizing a person who holds a permit to carry a concealed firearm issued by another state to carry a concealed firearm in this State under certain circumstances; revising various other provisions governing permits to carry concealed firearms; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a person who is not a resident of the State of Nevada to apply to the sheriff of any county in this State for a permit to carry a concealed firearm in this State. (NRS 202.3657) Section 2 of this bill allows a person who is not a resident of this State to carry a concealed firearm in this State if the person has a permit to carry a concealed firearm issued by ~~[another state and the Department of Public Safety has determined that the requirements for the issuance of a permit in that state are substantially similar to or more stringent than the requirements of this State.~~

~~Section 3 of this bill requires the Department to determine, on or before July 1 of each year, whether the requirements for the issuance of a permit to carry a concealed firearm in each state are substantially similar to or more stringent than the requirements of this State.]~~ *a state included in the list prepared by the Department of Public Safety pursuant to section 3 of this bill. In addition, a person who becomes a resident of this State and who possesses a permit issued by a state whose permits are recognized in this State may not carry a concealed firearm unless the person has been issued a permit from the sheriff of the county in which he resides within 60 days of becoming a resident of this State.*

Section 3 of this bill requires the Department to prepare a list of states which have been determined, on or before July 1 of each year: (1) to have requirements for the issuance of a permit to carry a concealed firearm that are substantially similar to or more stringent than the requirements of this State; and (2) to have an electronic database which identifies each individual who holds a valid permit to carry a concealed firearm issued by the state and which a law enforcement officer of this State may access at any time. A state must not be included in the list unless the Nevada Sheriffs' and Chiefs' Association agrees with the Department that the state should be included in the list.

Under existing law, a person may obtain a permit to carry in a concealed manner one or more firearms of a specific make, model and caliber if the person meets certain requirements. (NRS 202.3657, 202.366) Section 4 of this bill creates three categories of firearms, which consist of a category of revolvers, a category of semiautomatic firearms and a category of both revolvers and semiautomatic firearms. Under section 5 of this bill, a person may obtain a permit to carry in a concealed manner any firearm in one of the three categories if the person meets certain requirements.

~~[Existing law requires an applicant for a permit to carry a concealed firearm to include with the application for the permit a photograph of the applicant. (NRS 202.3657) The permit issued to the applicant must contain this photograph. (NRS 202.366) Section 5 of this bill removes the requirement that an application for a permit include a photograph of the applicant. Section 6 of this bill removes the requirement that the permit contain the photograph of the applicant.]~~

Existing law provides for the expiration of a permit to carry a concealed firearm. If the holder of the permit is a resident of this State, the permit expires on the fifth anniversary of the birthday of the holder which is nearest to the date of issuance or renewal. If the holder is a resident of another state, the permit expires on the third anniversary of the birthday of the holder which is nearest to the date of issuance or renewal. (NRS 202.366) Section 6 of this bill provides that all permits to carry a concealed firearm expire 5 years after the date of issuance.

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. ~~[A]~~ Except as otherwise provided in subsection 2, a person ~~[who is not a resident of this State and]~~ who possesses a permit to carry a concealed firearm that was issued by ~~[another]~~ a state included in the list prepared pursuant to section 3 of this act may carry a concealed firearm in this State in accordance with the requirements set forth in NRS 202.3653 to 202.369, inclusive, and sections 2 and 3 of this act . ~~[if the Department has determined that the requirements for the issuance of a permit to carry a concealed firearm in that state are substantially similar to or more stringent~~*

~~*than the requirements set forth in NRS 202.3653 to 202.369, inclusive, and sections 2 and 3 of this act.]*~~

2. A person who possesses a permit to carry a concealed firearm that was issued by a state included in the list prepared pursuant to section 3 of this act may not carry a concealed firearm in this State if the person:

(a) Becomes a resident of this State; and

(b) Has not been issued a permit from the sheriff of the county in which he resides within 60 days after becoming a resident of this State.

3. A person who carries a concealed firearm pursuant to this section is subject to the same legal restrictions and requirements imposed upon a person who has been issued a permit by a sheriff in this State.

Sec. 3. *1. On or before July 1 of each year, the Department shall:*

(a) Examine the requirements for the issuance of a permit to carry a concealed firearm in each state and determine whether the requirements of each state are substantially similar to or more stringent than the requirements set forth in NRS 202.3653 to 202.369, inclusive, and sections 2 and 3 of this act . ~~[;]~~

(b) Determine whether each state has an electronic database which identifies each individual who possesses a valid permit to carry a concealed firearm issued by that state and which a law enforcement officer in this State may access at all times through a national law enforcement telecommunications system.

(c) Prepare a list of states ~~[whose requirements for the issuance of a permit to carry a concealed firearm are substantially similar to or more stringent than the requirements set forth in NRS 202.3653 to 202.369, inclusive, and sections 2 and 3 of this act; and~~

~~(c)]~~ that meet the requirements of paragraphs (a) and (b). A state must not be included in the list unless the Nevada Sheriffs' and Chiefs' Association agrees with the Department that the state should be included in the list.

(d) Provide a copy of the list prepared pursuant to paragraph ~~[(b)]~~ (c) to each law enforcement agency in this State.

2. The Department shall, upon request, make the list prepared pursuant to subsection 1 available to the public.

Sec. 4. NRS 202.3653 is hereby amended to read as follows:

202.3653 As used in NRS 202.3653 to 202.369, inclusive, *and sections 2 and 3 of this act,* unless the context otherwise requires:

1. *"Category of firearm" means a category of revolvers, a category of semiautomatic firearms or a category of both revolvers and semiautomatic firearms. As used in this subsection, the term:*

(a) "Revolver" means a firearm that has a revolving cylinder with several chambers, which, by pulling the trigger or setting the hammer, are aligned with the barrel, placing the bullet in a position to be fired. The term includes, without limitation, a single or double derringer.

(b) "Semiautomatic firearm" means a firearm which:

(1) Uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of the trigger; and

(2) Requires the release of the trigger and another pull of the trigger for each successive shot.

2. "Concealed firearm" means a loaded or unloaded pistol, revolver or other firearm which is carried upon a person in such a manner as not to be discernible by ordinary observation.

~~[2.]~~ *3.* "Department" means the Department of Public Safety.

~~[3.]~~ *4.* "Permit" means a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive ~~[.]~~ *, and sections 2 and 3 of this act.*

Sec. 5. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for ~~[one or more specific firearms]~~ *a category of firearm* to any person who is qualified to possess ~~[each]~~ *the category of* firearm *to which the application pertains* under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with ~~[each]~~ *the category of* firearm *to which the application pertains* by presenting a certificate or other documentation to the sheriff which shows that he:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

➥ Such a course must include instruction in the use of ~~[each]~~ *the category of* firearm to which the application pertains and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless he determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if he determines that the applicant or permittee:

(a) Has an outstanding warrant for his arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, he has been:

(1) Convicted of violating the provisions of NRS 484.379; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for his conviction of a felony; or

(2) Suspension of his sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if he receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of his application until the final disposition of the charges against him. If a

permittee is acquitted of the charges against him, or if the charges are dropped, the sheriff shall restore his permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) ~~[(d)]~~ If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) The ~~[make, model and caliber of each]~~ ~~[(e) The]~~ *category of* firearm to which the application pertains;

(g) ~~[(f)]~~ A nonrefundable fee in the amount necessary to obtain the report required pursuant to subsection 1 of NRS 202.366; and

(h) ~~[(g)]~~ A nonrefundable fee set by the sheriff not to exceed $60.

Sec. 6. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, the sheriff shall conduct an investigation of the applicant to determine if he is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. The sheriff shall issue a permit to the applicant unless he is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, *and sections 2 and 3 of this act*, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting his investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as

may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County ..... Permit Number .....
Expires ..... Date of Birth .....
Height ..... Weight .....
Name ..... Address .....
City ..... Zip .....

Photograph

Signature .....
Issued by .....
Date of Issue .....
~~[Make, model and caliber of each authorized]~~ *Authorized category of* firearm .....

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires ~~[:~~

~~(a) If the permittee was a resident of this State at the time the permit was issued, on the fifth anniversary of the permittee's birthday, measured from the birthday nearest the date of issuance or renewal.~~

~~(b) If the permittee was not a resident of this State at the time the permit was issued, on the third anniversary of the permittee's birthday, measured from the birthday nearest the date of issuance or renewal.~~

~~5. If the date of birth of a permittee is on February 29 in a leap year, for the purposes of NRS 202.3653 to 202.369, inclusive, his date of birth shall be deemed to be on February 28.]~~ *5 years after the date on which it is issued.*

Sec. 7. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his permit, the permittee must complete and submit to the sheriff who issued the permit an application for renewal of the permit.

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee of $25.

➥ If a permittee fails to renew his permit on or before the date of expiration of his permit, the application for renewal must include an additional nonrefundable late fee of $15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with ~~[a]~~ *the category of* firearm *to which the application pertains* by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 8. NRS 202.3687 is hereby amended to read as follows:

202.3687 1. The provisions of NRS 202.3653 to 202.369, inclusive, *and sections 2 and 3 of this act* do not prohibit a sheriff from issuing a temporary permit . ~~[to carry a concealed firearm.]~~ A temporary permit may

include, but is not limited to, provisions specifying the period for which the permit is valid.

2. Each sheriff who issues a permit pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, *and sections 2 and 3 of this act* shall provide such information concerning the permit and the person to whom it is issued to the Central Repository for Nevada Records of Criminal History.

Sec. 9. The Department of Public Safety shall prepare the initial list required by section 3 of this act and provide a copy of that list to each law enforcement agency in this State not later than October 1, 2007.

Sec. 10. The amendatory provisions of sections 5 and 6 of this act apply to a permit to carry a concealed firearm that is issued on or after October 1, 2007.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 275.

Bill read second time.

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

Amendment No. 347.

"SUMMARY—Makes various changes relating to underground water. (BDR 48-208)"

"AN ACT relating to underground water; revising provisions governing the domestic use of underground water from a well; revising the date of priority of an appropriation of underground water from a well for domestic purposes; ~~[requiring]~~ *authorizing* the State Engineer to ~~[give notice in all basins before the forfeiture of]~~ *require the dedication or relinquishment of* a water right ~~[; requiring the dedication of a water right to a city or county or the designee of a city or county]~~ under certain circumstances; requiring that certain conditions be met if *a* local ~~[law or]~~ ordinance allows the development and use of underground water from a well for an accessory building of a single-family dwelling; *authorizing a county to relinquish a water right under certain circumstances;* revising provisions governing parcel maps; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Engineer may exempt from the application of chapter 534 of NRS, relating to underground water and wells, the use of water from a well for a domestic use or purpose if the use or purpose directly relates to a single-family dwelling and the draught does not exceed 1,800 gallons per day. (NRS 534.013, 534.180) Sections 1, 4, 5 and ~~[7]~~ *6* of this bill quantify the maximum limit of domestic use of underground water from a well as 2 acre feet per year instead of 1,800 gallons per day. Sections 1, 4, 6 and 7 of this bill authorize a local ordinance to extend a

domestic use or purpose to an accessory building of the single-family dwelling. Section 4 imposes additional responsibilities on the owner of a well, the local governing body or planning commission and the State Engineer if a local ordinance allows the development and use of underground water from a well for an accessory building of a single-family dwelling to qualify as a domestic use or purpose.

Under existing law, a domestic well exempted from chapter 534 of NRS is not assigned a date of priority. (NRS 534.080, 534.180) Section 2 of this bill sets the date of priority for certain domestic wells as the date of completion of the well as recorded by the driller of the well or another date as documented by evidence determined to be adequate by the State Engineer.

Under existing law, the State Engineer, in basins for which the State Engineer maintains pumping records, is required to give notice to an owner of a water right before the water right is forfeited for nonuse of the water. (NRS 534.090) Section 3 of this bill requires the State Engineer to give notice of a forfeiture of water rights for nonuse in all basins regardless of whether he maintains pumping records for the basin.

Under existing law, the State Engineer ~~[, in a designated basin, may require the registration of an otherwise exempt domestic well. (NRS 534.180) Section 4 of this bill authorizes the State Engineer to require the owner of a domestic well whose well is located in a designated basin to dedicate a water right to the city or county in which the well is located or to the designee of that city or county under certain circumstances.]~~ *is required to adopt regulations establishing a program that allows a public water system to receive credits for the addition of new customers in certain designated groundwater basins. (NRS 534.350) Section 6 of this bill authorizes a county to relinquish a right to appropriate water from a domestic well to the State Engineer if the county requires the dedication of that right to the county by the owner of a particular parcel of land. Section 6 further states that, if such an owner becomes a new customer of a public water system, the public water system is entitled to receive a credit in the same manner as the addition of any other customer to the public water system.*

Under existing law, a person who proposes to divide any land for transfer or development into four lots or less is required to prepare a parcel map and file it in accordance with local ordinance. (NRS 278.461) Section 7 of this bill requires ~~[such]~~ a person, in addition to filing a parcel map in accordance with local ordinance, to prepare and file a parcel map with the Division of Water Resources of the State Department of Conservation and Natural Resources and also to obtain a certificate of approval from the Division of Water Resources if ~~[the resulting parcels of land meet certain qualifications.]~~ *certain conditions occur.*

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

Section 1. NRS 534.013 is hereby amended to read as follows:

534.013 "Domestic use" or "domestic purposes" extends to culinary and household purposes directly related to ~~[a]~~ *:*

1. A single-family dwelling ~~[,]~~ *; ~~[or]~~ and*

2. An accessory building for a single-family dwelling if provided for in an applicable local ordinance,

➥ including, without limitation, the watering of a family garden and lawn and the watering of livestock and any other domestic animals or household pets, if the amount of water drawn does not exceed the ~~[threshold daily]~~ maximum amount set *forth* in NRS 534.180 for exemption from the application of this chapter.

Sec. 1.5. *NRS 534.050 is hereby amended to read as follows:*

534.050 1. Except as otherwise provided in subsection 2 and NRS 534.180, every person desiring to sink or bore a well in any basin or portion therein in the State designated by the State Engineer, as provided for in this chapter, must first make application to and obtain from the State Engineer a permit to appropriate the water, pursuant to the provisions of chapter 533 of NRS relating to the appropriation of the public waters, before performing any work in connection with the boring or sinking of the well.

2. Upon written application and a showing of good cause, the State Engineer may issue a written waiver of the requirements of subsection 1:

(a) For exploratory wells to be drilled to determine the availability of water or the quality of available water;

(b) To allow temporary use of the water in constructing a highway or exploring for *water,* oil, gas, minerals or geothermal resources; or

(c) For wells to be drilled in shallow groundwater systems and pumped to alleviate potential hazards to persons and property resulting from the rise of groundwater caused by secondary recharge. If practical, approved by the State Engineer and consistent with this chapter and chapter 533 of NRS, the withdrawn water must be used for some other beneficial use.

3. In other basins or portions of basins which have not been designated by the State Engineer no application or permit to appropriate water is necessary until after the well is sunk or bored and water developed. Before any diversion of water may be made from the well, the appropriator must make application to and obtain from the State Engineer, pursuant to the provisions of chapter 533 of NRS, a permit to appropriate the water.

4. Upon written application and a showing of good cause, the State Engineer may issue a written waiver of the requirements of subsection 3, to allow temporary use of water in constructing a highway or exploring for *water,* oil, gas, minerals or geothermal resources.

5. Any person using water after a permit has been withdrawn, denied, cancelled, revoked or forfeited is guilty of a misdemeanor. Each day of violation of this subsection constitutes a separate offense and is separately punishable.

Sec. 2. NRS 534.080 is hereby amended to read as follows:

534.080 1. A legal right to appropriate underground water for beneficial use from an artesian or definable aquifer subsequent to March 22, 1913, or from percolating water, the course and boundaries of which are incapable of determination, subsequent to March 25, 1939, can only be acquired by complying with the provisions of chapter 533 of NRS pertaining to the appropriation of water.

2. The State Engineer may, upon written notice sent by registered or certified mail, return receipt requested, advise the owner of a well who is using water therefrom without a permit to appropriate ~~[such]~~ *the* water to cease using ~~[such]~~ *the* water until he has complied with the laws pertaining to the appropriation of water. If the owner fails to initiate proceedings to secure such *a* permit within 30 days ~~[from]~~ *after* the date of ~~[such]~~ *the* notice , he ~~[shall be]~~ *is* guilty of a misdemeanor.

3. ~~[The]~~ *Except as otherwise provided in subsection 4 and NRS 534.180, the* date of priority of all appropriations of water from an underground source ~~[,]~~ mentioned in this section ~~[,]~~ is the date when application is made in proper form and filed in the Office of the State Engineer pursuant to the provisions of chapter 533 of NRS.

4. The date of priority of an appropriation of underground water from a well for domestic purposes where the draught does not exceed 2 acre feet per year is the date of completion of the well as:

(a) Recorded by the well driller on the log he files with the State Engineer pursuant to NRS 534.170; or

(b) Demonstrated through any other documentation or evidence specified by the State Engineer.

Sec. 3. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right ~~[,]~~ or a permitted right, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. ~~[For water rights in basins for which the State Engineer keeps pumping records, if]~~ *If* the records of the State Engineer *or any other documents specified by the State Engineer* indicate at least 4 consecutive years, but less than 5 consecutive years, of nonuse of all or any part of ~~[such]~~ a water right which is governed by this chapter, the State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail that he has 1 year after the date of the notice in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 2 to avoid forfeiting the water right. If, after 1 year after the date of the notice, proof of beneficial use is not sent to the State Engineer, the State Engineer shall, unless he has granted a request to

extend the time necessary to work a forfeiture of the water right, declare the right forfeited within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the owner of record whose right has been declared forfeited, the owner of record fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

2. The State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under that subsection if the request is made before the expiration of the time necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has shown good cause for his failure to use all or any part of the water beneficially for the purpose for which his right is acquired or claimed;

(b) The unavailability of water to put to a beneficial use which is beyond the control of the holder;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Any prolonged period in which precipitation in the basin where the water right is located is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin; and

(e) Whether the holder has demonstrated efficient ways of using the water for agricultural purposes, such as center-pivot irrigation.

➥ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether he has granted or denied the holder's request for an extension pursuant to this subsection.

3. If the failure to use the water pursuant to subsection 1 is because of the use of center-pivot irrigation before July 1, 1983, and such use could result in a forfeiture of a portion of a right, the State Engineer shall, by registered or certified mail, send to the owner of record a notice of intent to declare a forfeiture. The notice must provide that the owner has at least 1 year ~~[from]~~ *after* the date of the notice to use the water beneficially or apply for additional relief pursuant to subsection 2 before forfeiture of his right is declared by the State Engineer.

4. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose

of acting upon an application to appropriate water from the same source, is of the belief from his examination that an abandonment has taken place, he shall so state in his ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

Sec. 3.5. *NRS 534.120 is hereby amended to read as follows:*

534.120 1. Within an area that has been designated by the State Engineer, as provided for in this chapter, where, in his judgment, the groundwater basin is being depleted, the State Engineer in his administrative capacity ~~[is herewith empowered to]~~ *may* make such rules, regulations and orders as are deemed essential for the welfare of the area involved.

2. In the interest of public welfare, the State Engineer is authorized and directed to designate preferred uses of water within the respective areas so designated by him and from which the groundwater is being depleted, and in acting on applications to appropriate groundwater, he may designate such preferred uses in different categories with respect to the particular areas involved within the following limits:

(a) Domestic, municipal, quasi-municipal, industrial, irrigation, mining and stock-watering uses; and

(b) Any uses for which a county, city, town, public water district or public water company furnishes the water.

3. Except as otherwise provided in subsection 5, the State Engineer may:

(a) Issue temporary permits to appropriate groundwater which can be limited as to time and which may, except as limited by subsection 4, be revoked if and when water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.

(b) Deny applications to appropriate groundwater for any use in areas served by such an entity.

(c) Limit the depth of domestic wells.

(d) Prohibit the drilling of wells for domestic use, as defined in NRS 534.013, ~~[and 534.0175,]~~ in areas where water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.

(e) In connection with the approval of a parcel map in which any parcel is proposed to be served by a domestic well, require the dedication to a city or county or a designee of a city or county, or require a relinquishment to the State Engineer, of any right to appropriate water required by the State Engineer to ensure a sufficient supply of water for each of those parcels, unless the dedication of the right to appropriate water is required by a local ordinance.

4. The State Engineer may revoke a temporary permit issued pursuant to subsection 3 for residential use, and require a person to whom groundwater

was appropriated pursuant to the permit to obtain water from an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the designated area, only if:

(a) The distance from the property line of any parcel served by a well pursuant to a temporary permit to the pipes and other appurtenances of the proposed source of water to which the property will be connected is not more than 180 feet; and

(b) The well providing water pursuant to the temporary permit needs to be redrilled or have repairs made which require the use of a well-drilling rig.

5. The State Engineer may, in an area in which he has issued temporary permits pursuant to subsection 3, limit the depth of a domestic well pursuant to paragraph (c) of subsection 3 or prohibit repairs from being made to a well, and may require the person proposing to deepen or repair the well to obtain water from an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the designated area, only if:

(a) The distance from the property line of any parcel served by the well to the pipes and other appurtenances of the proposed source of water to which the property will be connected is not more than 180 feet; and

(b) The deepening or repair of the well would require the use of a well-drilling rig.

6. For good and sufficient reasons, the State Engineer may exempt the provisions of this section with respect to public housing authorities.

7. ~~[Nothing in this section prohibits]~~ *The provisions of this section do not prohibit* the State Engineer from revoking a temporary permit issued pursuant to this section if any parcel served by a well pursuant to the temporary permit is currently obtaining water from an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the area.

Sec. 4. NRS 534.180 is hereby amended to read as follows:

534.180 1. Except as otherwise provided in subsection 2 and as to the furnishing of any information required by the State Engineer, this chapter does not apply in the matter of obtaining permits for the development and use of underground water from a well for domestic purposes where the draught does not exceed ~~[a daily maximum of 1,800 gallons.]~~ *2 acre feet per year*.

2. The State Engineer may designate ~~*[2 acre feet per year.*~~

~~*2. In]*~~ any groundwater basin or portion thereof as a basin in which the ~~*[that is within an area designated by the State Engineer pursuant to NRS 534.120, the State Engineer may require:*~~

~~*(a) The]*~~ registration of a well is required ~~*[located within or partially within the area]*~~ if the well is drilled for the development and use of underground water for domestic purposes . ~~*[; and*~~

~~*(b) The dedication, to a city or county in which the well is located or the designee of that city or county, of such water rights necessary to ensure an adequate water supply for a parcel of land that is 40 acres or less in area, unless the dedication is required by an applicable local ordinance.*~~

~~*3.]*~~ A driller who drills such a well ~~*[for the development and use of underground water for domestic purposes]*~~ shall register the information required by the State Engineer within 10 days after the completion of the well. The State Engineer shall make available forms for the registration of such wells and shall maintain a register of those wells.

3. ~~*[4.]*~~ The State Engineer may require the plugging of such a well which is drilled on or after July 1, 1981, at any time not sooner than 1 year after water can be furnished to the site by:

(a) A political subdivision of this State; or

(b) A public utility whose rates and service are regulated by the Public Utilities Commission of Nevada,

➥ but only if the charge for making the connection to the service is less than $200.

~~*[5.]*~~ *4. If the development and use of underground water from a well for an accessory building of a single-family dwelling qualifies as a domestic use or domestic purpose pursuant to an applicable local ordinance:*

(a) The owner of the well shall:

(1) Obtain approval for that use or purpose from the local governing body or planning commission in whose jurisdiction the well is located;

(2) Install a water meter capable of measuring the total ~~*[consumption]*~~ *withdrawal of water* ~~*[used]*~~ *from the well; and*

(3) Ensure the total ~~*[consumption]*~~ *withdrawal of water* ~~*[used]*~~ *from the well does not exceed 2 acre feet per year;*

(b) The local governing body or planning commission shall report the ~~*[use]*~~ *withdrawal of water from the well on a form provided by the State Engineer;*

(c) The State Engineer shall monitor the annual withdrawal of water ~~*[consumption]*~~ *from the well; and*

(d) The date of priority for the use of the domestic well to supply water to the accessory building is the date of approval ~~*[received by the owner of the well from]*~~ *of the accessory building by the local governing body or planning commission.*

Sec. 5. NRS 534.185 is hereby amended to read as follows:

534.185 1. The State Engineer shall, upon written request and receipt of a written agreement between the affected property owners, waive the requirements of this chapter regarding permits for the use and development of underground water from a well if:

(a) The well existed on July 1, 1983;

(b) It is used solely for domestic purposes by not more than three single-family dwellings; and

(c) Each of those dwellings does not draw more than ~~[1,800 gallons]~~ *2 acre feet* of water ~~[in a day.]~~ *per year.*

2. The State Engineer may require an owner who has been granted such a waiver to apply for a permit if one or more of the dwellings is drawing more than ~~[1,800 gallons]~~ *2 acre feet* of water ~~[in a day.]~~ *per year.*

3. This section does not apply to any groundwater basin for which the State Engineer has in effect on July 1, 1983, a procedure of issuing revocable permits.

Sec. 6. NRS 534.350 is hereby amended to read as follows:

534.350 1. The State Engineer shall adopt regulations establishing a program that allows a public water system to receive credits, as provided in this section, for the addition of new customers to the system. The program must be limited to public water systems in areas:

(a) Designated as groundwater basins by the State Engineer pursuant to the provisions of NRS 534.030; and

(b) In which the State Engineer has denied one or more applications for any municipal uses of groundwater.

2. Before the State Engineer adopts any regulations pursuant to this section regarding any particular groundwater basin, he shall hold a public hearing:

(a) Within the basin to which the regulations will apply if adequate facilities to hold a hearing are available within that basin; or

(b) In all other cases, within the county where the major portion of that basin lies,

➥ to take testimony from any interested persons regarding the proposed regulations.

3. Upon adoption of the regulations required by this section regarding a particular groundwater basin, a public water system which provides service in that basin is entitled to receive a credit for each customer who is added to the system after the adoption of those regulations and:

(a) Voluntarily ceases to draw water from a domestic well located within that basin; or

(b) Is the owner of a lot or other parcel of land, other than land used or intended solely for use as a location for a ~~[water]~~ *domestic* well, which:

(1) Is located within that basin;

(2) Was established as a separate lot or parcel before July 1, 1993;

(3) Was approved by a local governing body or planning commission for service by an individual domestic well before July 1, 1993; and

(4) Is subject to a written agreement which was voluntarily entered into by the owner with the public water system pursuant to which the owner agrees not to drill a domestic well on the land and the public water system agrees that it will provide water service to the land. Any such agreement must be acknowledged and recorded in the same manner as conveyances affecting real property are required to be acknowledged and recorded pursuant to chapter 111 of NRS.

4. *If a county requires, by ordinance, the dedication to the county of a right to appropriate water from a domestic well which is located on a lot or other parcel of land that was established as a separate lot or parcel on or after July 1, 1993, the county may, by relinquishment to the State Engineer, allow the right to appropriate water to revert to the source of the water. The*

State Engineer shall not accept a relinquishment of a right to appropriate water pursuant to this subsection unless the right is in good standing as determined by the State Engineer. A right to appropriate water that is dedicated and relinquished pursuant to this subsection:

(a) Remains appurtenant only to the parcel of land in which it is located as specified on the parcel map for the parcel of land; and

(b) Maintains its date of priority established pursuant to NRS 534.080.

5. If an owner of a parcel of land specified in subsection 4 becomes a new customer of a public water system for that parcel of land, the public water system is entitled to receive a credit in the same manner as the addition of any other customer to the public water system pursuant to this section.

6. The State Engineer may require a new customer, who voluntarily ceases to draw water from a domestic well as provided in paragraph (a) of subsection 3 ~~[,]~~ *or whose right to appropriate water is dedicated pursuant to subsection 4,* to plug that well.

~~[5.]~~ *7.* A credit granted pursuant to this section:

(a) Must be sufficient to enable the public water system to add one service connection for a single-family dwelling to the system, except that the credit may not exceed the increase in water consumption attributable to the additional service connection or ~~[1,800 gallons per day,]~~ *2 acre feet per year*, whichever is less.

(b) May not be converted to an appropriative water right.

~~[6.]~~ *8.* This section does not:

(a) Require a public water system to extend its service area.

(b) Authorize any increase in the total amount of groundwater pumped in a groundwater basin.

(c) Affect any rights of an owner of a domestic well who does not voluntarily bring himself within the provisions of this section.

~~[7.]~~ *9.* As used in this section:

(a) "Domestic well" means a well used for culinary and household purposes in ~~[a]~~ *:*

(1) A single-family dwelling ~~[,]~~ *; ~~[or]~~ and*

(2) An accessory building for a single-family dwelling if provided for in an applicable local ordinance,

➥ including the watering of a garden, lawn and domestic animals and where the draught does not exceed ~~[1,800 gallons per day.]~~ *2 acre feet per year.*

(b) "Public water system" has the meaning ascribed to it in NRS 445A.840.

Sec. 7. NRS 278.461 is hereby amended to read as follows:

278.461 1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into four lots or less shall:

(a) Prepare a parcel map and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its

designated representative or, if there is no planning commission, with the clerk of the governing body; and

(b) Pay a filing fee in an amount determined by the governing body,

➥ unless ~~[these]~~ *those* requirements are waived or the provisions of NRS 278.471 to 278.4725, inclusive, apply. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

2. *In addition to any other requirement set forth in this section,* ~~*[if, in a designated basin, there is no local ordinance requiring the dedication of such water rights necessary to ensure an adequate water supply, a person who proposes to divide any land for transfer or development into four lots or less with each resulting lot constituting 40 acres or less in area and which is proposed to be served by a domestic well shall:*~~

~~*(a) Prepare and file a parcel map with the Division of Water Resources of the State Department of Conservation and Natural Resources; and*~~

~~*(b) Obtain a certificate of approval for the parcel map from that Division.]*~~ *a person who proposes to divide any land for transfer or development shall prepare and provide a copy of a parcel map to the Division of Water Resources of the State Department of Conservation and Natural Resources and obtain a certificate from the Division indicating that the parcel map is approved as to the quantity of water available for use if:*

(a) Any parcel included in the parcel map:

(1) Is within or partially within a basin designated by the State Engineer pursuant to NRS 534.120 for which the State Engineer has issued an order requiring approval by him of the parcel map; and

(2) Will be served by a domestic well; and

(b) The dedication of a right to appropriate water to ensure a sufficient supply of water is not required by an applicable local ordinance.

3. If the parcel map is submitted to the clerk of the governing body, he shall submit the parcel map to the governing body at its next regular meeting.

~~[3.]~~ *4.* A common-interest community consisting of four units or less shall be deemed to be a division of land within the meaning of this section, but need only comply with this section and NRS 278.371, 278.373 to 278.378, inclusive, 278.462, 278.464 and 278.466.

~~[4.]~~ *5.* A parcel map is not required when the division is for the express purpose of:

(a) The creation or realignment of a public right-of-way by a public agency.

(b) The creation or realignment of an easement.

(c) An adjustment of the boundary line between two abutting parcels or the transfer of land between two owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.

(d) The purchase, transfer or development of space within an apartment building or an industrial or commercial building.

(e) Carrying out an order of any court or dividing land as a result of an operation of law.

~~[5.]~~ *6.* A parcel map is not required for any of the following transactions involving land:

(a) The creation of a lien, mortgage, deed of trust or any other security instrument.

(b) The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity.

(c) Conveying an interest in oil, gas, minerals or building materials, which is severed from the surface ownership of real property.

(d) Conveying an interest in land acquired by the Department of Transportation pursuant to chapter 408 of NRS.

(e) Filing a certificate of amendment pursuant to NRS 278.473.

~~[6.]~~ *7.* When two or more separate lots, parcels, sites, units or plots of land are purchased, they remain separate for the purposes of this section and NRS 278.468, 278.590 and 278.630. When the lots, parcels, sites, units or plots are resold or conveyed they are exempt from the provisions of NRS 278.010 to 278.630, inclusive, until further divided.

~~[7.]~~ *8.* Unless a method of dividing land is adopted for the purpose or would have the effect of evading this chapter, the provisions for the division of land by a parcel map do not apply to a transaction exempted by paragraph (c) of subsection 1 of NRS 278.320.

9. As used in this section ~~[:~~

~~(a) "Designated basin" means a groundwater basin or portion thereof that is designated by the State Engineer pursuant to NRS 534.120.~~

~~(b) "Domestic]~~ , "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 8. NRS 278.464 is hereby amended to read as follows:

278.464 1. Except as otherwise provided in subsection 2, if there is a planning commission, it shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after accepting as a complete application a parcel map, recommend approval, conditional approval or disapproval of the map in a written report. The planning commission shall submit the parcel map and the written report to the governing body.

2. If the governing body has authorized the planning commission to take final action on a parcel map, the planning commission shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after accepting as a complete application the parcel map, approve, conditionally approve or disapprove the map. The planning commission shall

file its written decision with the governing body. Unless the time is extended by mutual agreement, if the planning commission is authorized to take final action and it fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

3. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or, by authorization of the governing body, the director of planning or other authorized person or agency shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after acceptance of the parcel map as a complete application by the governing body pursuant to subsection 1 or pursuant to subsection ~~[2]~~ *3* of NRS 278.461, review and approve, conditionally approve or disapprove the parcel map. Unless the time is extended by mutual agreement, if the governing body, the director of planning or other authorized person or agency fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

4. Except as otherwise provided in NRS 278.463, if unusual circumstances exist, a governing body or, if authorized by the governing body, the planning commission may waive the requirement for a parcel map. Before waiving the requirement for a parcel map, a determination must be made by the county surveyor, city surveyor or professional land surveyor appointed by the governing body that a survey is not required. Unless the time is extended by mutual agreement, a request for a waiver must be acted upon:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after the date of the request for the waiver or, in the absence of action, the waiver shall be deemed approved.

5. A governing body may consider or may, by ordinance, authorize the consideration of the criteria set forth in subsection 3 of NRS 278.349 in determining whether to approve, conditionally approve or disapprove a second or subsequent parcel map for land that has been divided by a parcel map which was recorded within the 5 years immediately preceding the acceptance of the second or subsequent parcel map as a complete application.

6. An applicant or other person aggrieved by a decision of the governing body's authorized representative or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

7. If a parcel map and the associated division of land are approved or deemed approved pursuant to this section, the approval must be noted on the map in the form of a certificate attached thereto and executed by the clerk of the governing body, the governing body's designated representative or the chairman of the planning commission. A certificate attached to a parcel map pursuant to this subsection must indicate, if applicable, that the governing

body or planning commission determined that a public street, easement or utility easement which will not remain in effect after a merger and resubdivision of parcels conducted pursuant to NRS 278.4925 has been vacated or abandoned in accordance with NRS 278.480.

Sec. 8.5. *NRS 278.466 is hereby amended to read as follows:*

278.466 1. The parcel map must be legibly drawn in permanent black ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for that purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink. The size of each sheet must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom and right edges, and of 2 inches at the left edge along the 24-inch dimension.

2. A parcel map must indicate the owner of any adjoining land, or any right-of-way if owned by the person dividing the land.

3. A parcel map must show:

(a) The area of each parcel or lot and the total area of the land to be divided in the following manner:

(1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or

(2) In square feet if the area is less than 2 acres.

(b) All monuments found, set, reset, replaced or removed, describing their kind, size and location and giving other data relating thereto.

(c) Bearing or witness monuments, the basis of bearings, bearing and length of lines and the scale of the map.

(d) The name and legal designation of the tract or grant in which the survey is located and any ties to adjoining tracts.

(e) Any easements granted or dedications made.

(f) Any other data necessary for the intelligent interpretation of the various items and locations of the points, lines and area shown.

4. A parcel map must include:

(a) The memorandum of oaths described in NRS 625.320.

(b) The certificate of the surveyor required pursuant to NRS 278.375.

(c) The *certificate of the Division of Water Resources of the State Department of Conservation and Natural Resources issued pursuant to NRS 278.461, if any.*

(d) The signature of each owner of the land to be divided.

5. A governing body may by local ordinance require a parcel map to include:

(a) A report from a title company which lists the names of:

(1) Each owner of record of the land to be divided; and

(2) Each holder of record of a security interest in the land to be divided, ➥ if the security interest was created by a mortgage or a deed of trust.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a) to the preparation and

recordation of the parcel map. A holder of record of a security interest may consent by signing:

(1) The parcel map; or

(2) A separate document that is recorded with the parcel map and declares his consent to the division of land, if the map contains a notation that a separate document has been recorded to this effect.

6. If the requirement for a parcel map is waived, the governing body may specify by local ordinance the type and extent of information or mapping necessary for the division of land.

7. Reference to the parcel number and recording data of a recorded parcel map is a complete legal description of the land contained in the parcel.

Sec. 9. NRS 278.5693 is hereby amended to read as follows:

278.5693 1. For a boundary line to be adjusted or for land to be transferred pursuant to paragraph (c) of subsection ~~[4]~~ *5* of NRS 278.461, a professional land surveyor must have performed a field survey, set monuments and filed a record of survey pursuant to NRS 625.340.

2. A record of survey filed pursuant to subsection 1 must contain:

(a) A certificate by the professional land surveyor who prepared the map stating that:

(1) He has performed a field survey sufficient to locate and identify properly the proposed boundary line adjustment;

(2) All corners and angle points of the adjusted boundary line have been defined by monuments or will be otherwise defined on a document of record as required by NRS 625.340; and

(3) The map is not in conflict with the provisions of NRS 278.010 to 278.630, inclusive.

(b) A certificate that is executed and acknowledged by each affected owner of the abutting parcels which states that:

(1) He has examined the plat and approves and authorizes the recordation thereof;

(2) He agrees to execute the required documents creating any easement which is shown;

(3) He agrees to execute the required documents abandoning any existing easement pursuant to the provisions of NRS 278.010 to 278.630, inclusive;

(4) All property taxes on the land for the fiscal year have been paid; and

(5) Any lender with an impound account for the payment of taxes has been notified of the adjustment of the boundary line or the transfer of the land.

(c) A certificate by the governing body or its designated representative approving the adjustment of the boundary line.

Sec. 10. This act becomes effective on July 1, 2007.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 277.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 266.

"SUMMARY—Authorizes the court to assign certain offenders to a program of treatment for certain offenses. (BDR 43-888)"

"AN ACT relating to traffic laws; authorizing the court to order certain offenders who plead guilty or nolo contendere to a third offense of driving under the influence of intoxicating liquor or a controlled substance to a program for the treatment of alcoholism or drug abuse; revising certain penalties for driving under the influence of intoxicating liquor or a controlled substance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows an offender who is found guilty of a first or second violation of driving under the influence of intoxicating liquor or a controlled substance to apply to the court to attend a certified program of treatment for alcoholism or drug abuse. (NRS 484.3792, 484.37937, 484.3794) Upon successful completion of the program, the court will reduce the sentence of the offender. (NRS 484.37937, 484.3794) However, no treatment option or reduced sentence is authorized for a third offense, which is a felony offense. (NRS 484.3792) This bill authorizes the court to order an offender who enters a plea of guilty or nolo contendere to a third-offense violation of driving under the influence of intoxicating liquor or a controlled substance to a program of treatment for a minimum of 3 years and to suspend the offender's sentence until the program of treatment is completed. If the offender successfully completes the program of treatment, his conviction will be reduced to a second-offense violation of driving under the influence of intoxicating liquor or a controlled substance, which is a misdemeanor. Thus, for the purposes of employment, civil rights, licensing or any other public or private purpose, the conviction would be reflected as a misdemeanor. However, the conviction would stand as a prior felony conviction for the purpose of any additional penalties that may be imposed for subsequent offenses for driving under the influence of intoxicating liquor or a controlled substance.

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484.379 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484.3792 may, at the time he enters his plea, ~~[provided that the prosecuting attorney agrees,]~~ apply to the court to undergo a

program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 3 years if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified pursuant to chapter 641C of NRS to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources.

➥ *An alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or abuser of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.*

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 5 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 5 years and during treatment he may be confined in an institution or, at the discretion of the treatment facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a treatment facility, or if he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment ~~[must]~~ may be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily:

(I) The court shall vacate his sentence of imprisonment and reduce his conviction from a violation of paragraph (c) of subsection 1 of NRS 484.3792 to a violation of paragraph (b) of subsection 1 of NRS 484.3792.

(II) Such a conviction shall be deemed a misdemeanor for all public purposes, except that the conviction must remain on his record of criminal history as a felony and shall be deemed a prior felony conviction for purposes of enhancement under subsection 2 of NRS 484.3792.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May immediately revoke the suspension of sentence for a violation of a condition of the suspension.

6. To participate in a program of treatment, the offender must meet the following conditions, including, without limitation:

(a) The offender shall serve a minimum of 6 months of residential confinement pursuant to NRS 4.376 to 4.3766, inclusive;

(b) The offender shall have installed, at his own expense, a device pursuant to NRS 484.3943 for a period of not less than 12 months which may be extended at the discretion of the court;

(c) The offender may not drive any vehicle which is not equipped with a device pursuant to NRS 484.3943;

(d) At the discretion of the court or treatment facility, the offender may be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) Any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug abuse pursuant to this section if he has previously applied to receive treatment pursuant to this section or if he has previously been convicted of:

(a) A violation of NRS 484.3795;

(b) A violation of NRS 484.37955;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955;

(d) A violation of paragraph (c) of subsection 1 of NRS 484.3792;

(e) A violation of subsection 2 of NRS 484.3792; or

(f) A violation of law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b), (c) or (d).

8. As used is this section, "treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 2. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. Unless a greater penalty is provided pursuant to NRS 484.3795 or 484.37955, and except as otherwise provided in subsection 2, a person who violates the provisions of NRS 484.379:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

(1) Except as otherwise provided in subparagraph (4) or subsection 7, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the Department and complete the course within the time specified in the order, and the court shall notify the Department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform not less than 48 hours, but not more than 96 hours, of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379;

(3) Fine him not less than $400 nor more than $1,000; and

(4) If he is found to have a concentration of alcohol of 0.18 or more in his blood or breath, order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484.3794, the court shall:

(1) Sentence him to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

(2) Fine him not less than $750 nor more than $1,000, or order him to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

(3) Order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

➥ A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

(c) ~~[For]~~ *Except as otherwise provided in section 1 of this act, for* a third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. *The court may order the offender to attend a program of treatment for the abuse of alcohol or drugs pursuant to section 1 of this act.* An offender ~~[so]~~ *who is* imprisoned *pursuant to the provisions of this paragraph* must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. Unless a greater penalty is provided in NRS 484.37955, a person who has previously been convicted of:

(a) A violation of NRS 484.379 that is punishable as a felony pursuant to paragraph (c) of subsection 1;

(b) A violation of NRS 484.3795;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; ~~[or]~~

(d) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b) or (c) ~~[.]~~ *; or*

(e) A misdemeanor that was reduced from a felony after successful completion of a program of treatment as set forth in section 1 of this act,

➥ and who violates the provisions of NRS 484.379 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

3. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. An offense which is listed in paragraphs (a) to (d), inclusive, of subsection 2 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard for the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. A person convicted of violating the provisions of NRS 484.379 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and 484.3794, *and section 1 of this act*, that portion of the sentence imposed that exceeds the mandatory minimum. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

5. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 *, or section 1 of this act,* and the suspension of his sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

6. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560 or 485.330 must run consecutively.

7. If the person who violated the provisions of NRS 484.379 possesses a driver's license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) of subsection 1, the court shall:

(a) Order the person to pay tuition for and submit evidence of completion of an educational course on the abuse of alcohol and controlled substances approved by a governmental agency of the state of his residence within the time specified in the order; or

(b) Order him to complete an educational course by correspondence on the abuse of alcohol and controlled substances approved by the Department within the time specified in the order,

➥ and the court shall notify the Department if the person fails to complete the assigned course within the specified time.

8. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

9. For the purpose of determining whether one offense occurs within 7 years of another offense, any period of time between the two offenses during which, for any such offense, the offender is imprisoned, serving a term of residential confinement, confined in a treatment facility, on parole or on probation must be excluded.

10. As used in this section, unless the context otherwise requires:

(a) "Concentration of alcohol of 0.18 or more in his blood or breath" means 0.18 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his breath.

(b) "Offense" means:

(1) A violation of NRS 484.379 or 484.3795;

(2) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a

controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(3) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in subparagraph (1) or (2).

(c) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 3. NRS 484.37945 is hereby amended to read as follows:

484.37945 1. When a program of treatment is ordered pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792, *or section 1 of this act*, the court shall place the offender under the clinical supervision of a treatment facility for treatment for a period not to exceed 1 year, in accordance with the report submitted to the court pursuant to subsection 3, 4, 5 or 6 of NRS 484.37943 ~~[.]~~ *or section 1 of this act.* The court shall:

(a) Order the offender confined in a treatment facility, then release the offender for supervised aftercare in the community; or

(b) Release the offender for treatment in the community,

➥ for the period of supervision ordered by the court.

2. The court shall:

(a) Require the treatment facility to submit monthly progress reports on the treatment of an offender pursuant to this section; and

(b) Order the offender, to the extent of his financial resources, to pay any charges for his treatment pursuant to this section. If the offender does not have the financial resources to pay all those charges, the court shall, to the extent possible, arrange for the offender to obtain his treatment from a treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.

3. A treatment facility is not liable for any damages to person or property caused by a person who:

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct,

➥ after the treatment facility has certified to his successful completion of a program of treatment ordered pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792 ~~[.]~~ *, or section 1 of this act.*

Sec. 4. NRS 484.37947 is hereby amended to read as follows:

484.37947 The provisions of NRS 484.37943 and 484.37945 *, and section 1 of this act* do not prohibit a court from:

1. Requiring an evaluation pursuant to NRS 484.37943 to be conducted by an evaluation center that is administered by a private company if the company meets the standards of the State Board of Health pursuant to NRS 484.37935; or

2. Ordering the offender to attend a program of treatment that is administered by a private company.

Sec. 5. This act becomes effective on July 1, 2007.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 291.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 353.

"SUMMARY—Revises certain provisions governing civil practice in actions in which *a* plaintiff is a nonresident or *a* foreign corporation. (BDR 2-1309)"

"AN ACT relating to undertakings in civil actions; *increasing the amount of undertaking and* making mandatory a grant of increased undertaking in civil actions in which plaintiffs are ~~[nonresident]~~ *nonresidents* or foreign corporations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, upon a defendant's request, a plaintiff who is not a Nevada resident must post up to $500 security for the costs which the defendant may incur during litigation and which may be awarded to a defendant in the event that the plaintiff does not prevail. (NRS 18.130) Existing law also provides that the defendant may request increased security later in the litigation if it becomes apparent that the security posted is or will become insufficient. (NRS 18.130)

This bill increases to $1,000 the maximum security which a court may initially impose. This bill also ~~[sets forth the showing which a defendant must make in requesting an increase in posted security and]~~ makes mandatory a grant of ~~[such]~~ *an* increase *in security* once ~~[the required showing is made by]~~ a defendant ~~[.]~~ *proves that the original undertaking is insufficient security.*

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

Section 1. NRS 18.130 is hereby amended to read as follows:

18.130 1. When a plaintiff in an action resides out of the State, or is a foreign corporation, security for the costs and charges which may be awarded against such plaintiff may be required by the defendant, by the filing and service on plaintiff of a written demand therefor within the time limited for answering the complaint. When so required, all proceedings in the action ~~[shall]~~ *must* be stayed until an undertaking, executed by two or more persons, ~~[be]~~ *is* filed with the clerk, to the effect that they will pay such costs and charges as may be awarded against the plaintiff by judgment, or in the progress of the action, not exceeding the sum of ~~[$500;]~~ *$1,000,* or in lieu of such undertaking, the plaintiff may deposit ~~[$500,]~~ *$1,000,* lawful money, with the clerk of the court, subject to the same conditions as required for the

undertaking. The plaintiff, upon filing the undertaking or depositing the security, shall notify the defendant of such filing or deposit, and the defendant, after receipt of such notice, shall have 10 days or the period allowed under N.R.C.P. 12(a), whichever is longer, in which to answer or otherwise plead to the complaint.

2. A new or an additional undertaking ~~[may]~~ *must* be ordered by the court or judge upon proof that the original undertaking is insufficient security . ~~[, and proceedings]~~ ~~*[To prove security is insufficient, the defendant must show that reasonable costs in excess of the previously posted security amount actually were incurred or must provide estimates of costs, including, without limitation, expert costs, that may be incurred during the remainder of the litigation.]*~~ *Proceedings* in the action *may be* stayed until such new or additional undertaking ~~[be]~~ *is* executed and filed.

3. Each of the sureties on the undertaking mentioned in subsection 1 shall annex to the same an affidavit that he is a resident and householder, or freeholder, within the county and is worth double the amount specified in the undertaking, over and above all his just debts and liabilities, exclusive of property exempt from execution.

4. After the lapse of 30 days from the service of notice that security is required, or of an order for new or additional security, upon proof thereof, and that no undertaking as required has been filed, the court or judge may order the action to be dismissed.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 298.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 263.

"SUMMARY—Enacts provisions relating to civil liability for causing the injury or death of certain pets. (BDR 3-479)"

"AN ACT relating to civil liability; enacting provisions relating to civil liability for causing the injury or death of certain pets; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under general legal principles, a pet is considered the personal property of its owner. If a person negligently, recklessly, willfully or intentionally injures or kills the pet of another person, the owner of the pet may recover the same damages that the owner could recover for damage to or destruction of the owner's personal property. Section 1 of this bill ~~[provides]~~ *replaces this general legal principle with a statutory provision which provides* that a person who intentionally, willfully, recklessly or negligently injures or kills the dog or cat of another person is liable for certain economic ~~[and~~

~~noneconomic damages.]~~ *damages and that the award of such damages must not exceed $5,000.* Under section 1, ~~[the recovery of noneconomic damages must not exceed $5,000 for each pet and]~~ punitive damages *and noneconomic damages* may not be awarded.

Section 2 of this bill provides that the owner of the dog or cat must bring an action within 2 years after the cause of action accrues.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection ~~[3,]~~ 4, if a person intentionally, willfully, recklessly or negligently injures or kills the pet of another person, the person is liable for the following:

(a) ~~[The mental anguish, emotional distress, loss of companionship and other noneconomic damages suffered by each owner of the pet, but the recovery for such damages must not exceed $5,000 for each pet.~~

~~(b)]~~ The cost of veterinary care incurred by the owner because of the injury or death of the pet.

~~[(c)]~~ (b) If the pet is injured, any reduction in the market value of the pet caused by the injury.

~~[(d)]~~ (c) If the pet is killed, the market value of the pet and reasonable burial expenses.

~~[(e)]~~ (d) Reasonable attorney's fees and costs incurred by the owner in bringing an action pursuant to this section.

2. Punitive damages and noneconomic damages may not be awarded in an action brought under this section.

3. In an action brought under this section, the award of damages must not exceed $5,000 for each pet.

4. The provisions of this section do not authorize ~~[the]~~ an award of ~~[noneconomic]~~ damages pursuant to ~~[paragraph (a) of]~~ subsection 1 if:

(a) A nonprofit organization, society for the prevention of cruelty to animals established pursuant to NRS 574.010 or governmental entity, or an employee or agent thereof, ~~[negligently kills or]~~ injures or kills a pet while acting in furtherance of public health or animal welfare.

(b) ~~[The action is against a licensed veterinarian for professional negligence.~~

~~(c)]~~ The action is based on the killing of a dog that had been or was killing or causing damage to livestock.

~~[4.]~~ 5. As used in this section:

(a) "Livestock" has the meaning ascribed to it in NRS 569.0085.

(b) "Owner" means a person who owns, possesses, harbors, keeps or has control or custody of a pet.

(c) "Pet" means any domesticated dog or cat normally maintained in or near the household of its owner.

Sec. 2. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under section 1 of this act.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 3. This act applies to a cause of action that accrues on or after October 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 310.

Bill read second time.

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

Amendment No. 427.

"SUMMARY—Makes various changes relating to professions and occupations. (BDR 54-131)"

"AN ACT relating to professions; revising provisions governing the grading of certain examinations; requiring the electronic filing of certain information and reports by certain regulatory bodies; ~~[revising provisions~~

~~governing the licensure of social workers without examination;~~] revising provisions governing the expiration of the licenses of cosmetological establishments and certain licensees; *increasing the maximum salary that members of certain occupational or professional boards are entitled to receive for each day of service on the board; requiring the Legislative Committee on Health Care to appoint a subcommittee to conduct a study of the regulation of providers of health care in Nevada;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, various regulatory bodies governing professions and occupations under title 54 of NRS have examination requirements for licensure or certification. Section 1 of this bill provides that, if such a regulatory body uses or accepts a national or other examination which is produced or administered by an organization other than the regulatory body and which includes a methodology for determining the level of performance that constitutes a passing grade or score on the examination, the regulatory body shall apply that methodology in determining whether a person who took the examination achieved a passing grade or score.

Under existing law, such regulatory bodies are required to submit periodic reports of their disciplinary actions and other regulatory activities to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission and certain standing committees of the Legislature. (NRS 622.100, 622.110) Section 2 of this bill requires that all such reports be submitted quarterly and that they be submitted in an electronic format prescribed by the Director.

~~[Under existing law, the Board of Examiners for Social Workers may grant a license without examination to a person who holds a license to engage in the practice of social work in another state under certain circumstances. (NRS 641B.270) Section 15 of this bill requires the Board to grant such a license to an applicant who meets certain additional criteria set forth in that section.]~~ *Sections 3, 4, 6-12, 15, 18, 19, 21-23, 25, 27, 28, 30, 31, 33, 34, 36, 37, 39, 41-44 and 48-51 of this bill increase the maximum salary that members of certain professional or occupational boards are entitled to receive for each day of service on the board from $80 to $150 per day.*

Under existing law, the license of every cosmetologist, aesthetician, electrologist, hair designer, manicurist, demonstrator of cosmetics, instructor and cosmetological establishment expires on July 1 of each odd-numbered year. (NRS 644.320, 644.350) Sections ~~[17 and 18]~~ *46 and 47* of this bill establish a procedure under which approximately half of those licenses will expire in even-numbered years, the other half in odd-numbered years.

Section 54 of this bill requires the Legislative Committee on Health Care to appoint a subcommittee to conduct: (1) a review of the laws of this State that establish the scope of practice authorized for providers of health care; and (2) a study concerning the operation of the professional licensing boards for providers of health care with respect to barriers to licensing.

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

Section 1. Chapter 622 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the provisions of any specific statute to the contrary, if a regulatory body, in any testing authorized or required pursuant to this title or any regulations adopted pursuant thereto, uses or accepts a national or other examination which is produced or administered by an organization other than the regulatory body and which includes a methodology for determining the level of performance that constitutes a passing grade or score on the examination, the regulatory body shall apply that methodology in determining whether a person who took the examination achieved a passing grade or score.

Sec. 2. NRS 622.100 is hereby amended to read as follows:

622.100 1. Each regulatory body shall, on or before the 20th day of January, April, July and October, submit to the Director of the Legislative Counsel Bureau ~~[a]~~ *in an electronic format prescribed by the Director:*

(a) A summary of each disciplinary action taken by the regulatory body during the immediately preceding calendar quarter against any licensee of the regulatory body ~~[.]~~ *; and*

(b) A report that includes:

(1) The number of licenses issued by the regulatory body during the immediately preceding calendar quarter; and

(2) Any other information that is requested by the Director or which the regulatory body determines would be helpful to the Legislature in evaluating whether the continued existence of the regulatory body is necessary.

2. The Director ~~[of the Legislative Counsel Bureau]~~ shall:

(a) Provide any information he receives pursuant to subsection 1 to a member of the public upon request;

(b) Cause a notice of the availability of such information to be posted on the public website of the Nevada Legislature on the Internet; and

(c) Transmit a compilation of the information he receives pursuant to subsection 1 to the Legislative Commission quarterly, unless otherwise directed by the Commission.

3. The Director, on or before the first day of each regular session of the Legislature and at such other times as directed, shall compile the reports he has received pursuant to paragraph (b) of subsection 1 and distribute copies of the compilation to the Senate Standing Committee on Commerce and Labor and the Assembly Standing Committee on Commerce and Labor, each of which shall review the compilation to determine whether the continued existence of each regulatory body is necessary.

Sec. 3. *NRS 623.070 is hereby amended to read as follows:*

623.070 1. Each member of the Board is entitled to receive from the money of the Board:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. The Secretary and Treasurer of the Board is entitled to be paid a salary out of the money of the Board in an amount to be determined by the Board.

Sec. 4. *NRS 623A.090 is hereby amended to read as follows:*

623A.090 1. Members of the Board are entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Any salary, per diem allowance or travel expenses paid pursuant to the provisions of this section must be paid from money kept or deposited by the Board in accordance with the provisions of NRS 623A.150.

~~[Sec. 3.]~~ *Sec. 5.* NRS 623A.190 is hereby amended to read as follows:

623A.190 1. The Board shall administer or cause to be administered a written examination to each applicant for a certificate of registration or certificate to practice as a landscape architect intern.

2. The examination must be given at such times and places and under such supervision as the Board may determine.

3. The Board may include in the written examination any theoretical or applied fields and ethical issues it deems appropriate to determine professional skills and judgment.

4. ~~[The]~~ *Except as otherwise provided in section 1 of this act, the* Board shall, by regulation, establish the grade that is required to pass the written examination.

5. The written examination may be waived by the Board if the applicant:

(a) Presents documentation that he has passed an examination in another state or country that has been accepted as an equivalent by a national association of registered boards; or

(b) Has been certified by such an organization.

6. Written examination papers must be destroyed after a certificate of registration is issued.

7. If the applicant fails to pass the written examination or any part thereof, he may retake the examination or the part failed in a subsequent examination upon the payment of the applicable fees prescribed by the Board pursuant to the provisions of NRS 623A.240.

Sec. 6. *NRS 624.140 is hereby amended to read as follows:*

624.140 1. Except as otherwise provided in subsection 3, if money becomes available from the operations of this chapter and payments made for licenses, the Board may pay from that money:

(a) The expenses of the operations of this chapter, including the maintenance of offices.

(b) The salary of the Executive Officer who must be named by the Board.

(c) A salary to each member of the Board of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board.

(d) A per diem allowance and travel expenses for each member and employee of the Board, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

3. Except as otherwise provided in NRS 624.520, if a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2, the Board shall deposit any money collected from the imposition of fines with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 7. *NRS 625.110 is hereby amended to read as follows:*

625.110 1. The Board shall elect officers from its members and, by regulation, establish the:

(a) Offices to which members may be elected;

(b) Title and term for each office; and

(c) Procedure for electing members to each office.

2. At any meeting, five members constitute a quorum.

3. Each member is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. The salaries of members of the Board and employees of the Board must be paid from the fees received by the Board pursuant to the provisions

of this chapter, and no part of those salaries may be paid out of the State General Fund.

6. The Board shall appoint an Executive Director who serves at the pleasure of the Board and is entitled to receive such compensation as may be fixed by the Board.

Sec. 8. *NRS 625A.050 is hereby amended to read as follows:*

625A.050 1. The Secretary of the Board is entitled to receive:

(a) A salary in an amount fixed by the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. All other members of the Board are entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 9. *NRS 628.110 is hereby amended to read as follows:*

628.110 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 10. *NRS 630.110 is hereby amended to read as follows:*

630.110 1. Out of the money coming into the possession of the Board, each member and advisory member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Expenses of the Board and the expenses and salaries of its members and employees must be paid from the fees received by the Board pursuant to the provisions of this chapter, and no part of the salaries or expenses of the Board may be paid out of the State General Fund or from the penalties imposed by the Board pursuant to this chapter.

4. All money received by the Board from:

(a) Fees must be deposited in financial institutions in this State that are federally insured or insured by a private insurer pursuant to NRS 678.755, invested in treasury bills or notes of the United States, deposited in institutions in this State whose business is the making of investments, or invested as authorized by NRS 355.140.

(b) Penalties must be deposited with the State Treasurer for credit to the State General Fund.

Sec. 11. *NRS 630A.160 is hereby amended to read as follows:*

630A.160 1. Out of the money coming into the possession of the Board, each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Expenses of the Board and the expenses and salaries of the members and employees of the Board must be paid from the fees received by the Board pursuant to the provisions of this chapter. Except as otherwise provided in subsection 6, no part of the salaries or expenses of the members of the Board may be paid out of the State General Fund.

4. All money received by the Board must be deposited in financial institutions in this State that are federally insured or insured by a private insurer approved pursuant to NRS 678.755.

5. In a manner consistent with the provisions of chapter 622A of NRS, the Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect administrative fines, court costs and attorney's fees therefor and deposit the money therefrom in financial institutions in this State that are federally insured or insured by a private insurer approved pursuant to NRS 678.755.

6. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 5, the Board shall deposit the money collected from the imposition of administrative fines, court costs and attorney's fees with the State Treasurer for credit to the State General Fund. The Board 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. 12. *NRS 631.180 is hereby amended to read as follows:*

631.180 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. The Board shall deposit in banks, credit unions or savings and loan associations in this State all fees which it receives.

4. All expenses of the Board must be paid from the fees received by the Board, and no part thereof may be paid from the State General Fund.

~~[Sec. 4.]~~ *Sec. 13.* NRS 631.240 is hereby amended to read as follows:

631.240 1. Any person desiring to obtain a license to practice dentistry in this State, after having complied with the regulations of the Board to determine eligibility:

(a) ~~[Must]~~ *Except as otherwise provided in section 1 of this act, must* present to the Board a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Examination with an average score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully complete a clinical examination given by the Board which examines the applicant's practical knowledge of dentistry and which includes demonstrations of the applicant's skill in dentistry; or

(2) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board.

2. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

3. All persons who have satisfied the requirements for licensure as a dentist must be registered as licensed dentists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

~~[Sec. 5.]~~ *Sec. 14.* NRS 631.300 is hereby amended to read as follows:

631.300 1. Any person desiring to obtain a license to practice dental hygiene, after having complied with the regulations of the Board to determine eligibility:

(a) ~~[Must]~~ *Except as otherwise provided in section 1 of this act, must* pass a written examination given by the Board upon such subjects as the Board deems necessary for the practice of dental hygiene or must present a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully complete a clinical examination in dental hygiene given by the Board which examines the applicant's practical knowledge of dental hygiene and which includes, but is not limited to, demonstrations in the removal of deposits from, and the polishing of, the exposed surface of the teeth; or

(2) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board.

2. The clinical examination given by the Board must include components that are:

(a) Written or oral, or a combination of both; and

(b) Practical, as in the opinion of the Board is necessary to test the qualifications of the applicant.

3. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

4. All persons who have satisfied the requirements for licensure as a dental hygienist must be registered as licensed dental hygienists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

Sec. 15. *NRS 632.080 is hereby amended to read as follows:*

632.080 1. The compensation of the members of the Board must be fixed by the Board, but may not exceed ~~[$80]~~ *$150* for each day spent by each member in the discharge of his official duties.

2. While engaged in the discharge of his official duties, each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. All compensation, per diem allowances and travel expenses of the members and employees of the Board must be paid out of the money of the Board.

~~[Sec. 6.]~~ *Sec. 16.* NRS 632.2856 is hereby amended to read as follows:

632.2856 1. The training program required for certification as a nursing assistant must consist of 75 hours of instruction. The program must include no less than 60 hours of theory and learning skills in a laboratory setting.

2. Except as otherwise provided in this subsection, the instructor of the program must be a registered nurse with:

(a) Three years of nursing experience which includes direct care of patients and supervision and education of members of the staff; and

(b) Proof of successful completion of training for instructors which has been approved by the Board.

➥ The Board may approve a licensed practical nurse as an instructor if the Board determines that requiring instruction by a registered nurse would create a hardship.

3. ~~[Upon]~~ *Except as otherwise provided in section 1 of this act, upon* completion of the program, a nursing assistant trainee must pass a test in theory with an overall score of 80 percent and a test of skills on a pass or fail basis. The test of skills must be given by a registered nurse. If the nursing assistant trainee fails either of the tests, he must repeat the training in the areas in which he was deficient before taking the certification examination.

4. In a program which is based in a facility, a nursing assistant trainee may only perform those tasks he has successfully completed in the training program, and must perform those tasks under the direct supervision of a registered nurse or a licensed practical nurse.

5. The Board shall adopt regulations not inconsistent with law:

(a) Specifying the scope of the training program and the required components of the program;

(b) Establishing standards for the approval of programs and instructors; and

(c) Designating the basic nursing services which a nursing assistant may provide upon certification.

6. Any medical facility, educational institution or other organization may provide a training program if the program meets the requirements set forth in this chapter and in the regulations of the Board, and is approved by the Board. Such a program must be administered through:

(a) The Nevada System of Higher Education;

(b) A program for career and technical education approved by the State Board for Career and Technical Education;

(c) A public school in this State; or

(d) Any other nationally recognized body or agency authorized by law to accredit or approve such programs.

7. An educational institution or agency that administers a training program shall:

(a) Develop or approve the curriculum for training provided in its service district;

(b) Manage the training program; and

(c) Work with medical and other facilities to carry out the requirements of paragraphs (a) and (b).

~~[Sec. 7.]~~ *Sec. 17.* NRS 632.2858 is hereby amended to read as follows:

632.2858 1. The Board shall authorize the administration of the examination of applicants for certification as nursing assistants.

2. The Board may employ, contract with or cooperate with any person in the preparation, administration and grading of a uniform national examination, but , *except as otherwise provided in section 1 of this act,* shall retain sole discretion and responsibility for determining the standards of successful completion of the examination.

3. The Board shall determine whether an examination may be repeated and the frequency of authorized reexaminations.

4. If an applicant fails the examination three times, he must repeat the training program prescribed in NRS 632.2856.

Sec. 18. *NRS 633.241 is hereby amended to read as follows:*

633.241 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in its business; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 19. *NRS 634.025 is hereby amended to read as follows:*

634.025 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

~~[Sec. 8.]~~ *Sec. 20.* NRS 634.100 is hereby amended to read as follows:

634.100 1. An applicant for a license to practice chiropractic in this State must pay the required fee to the Secretary of the Board not less than 60 days before the date of the examination.

2. ~~[A]~~ *Except as otherwise provided in section 1 of this act, a* score of 75 percent or higher in all subjects taken on the examination is a passing score.

3. If an applicant fails to pass the first examination, he may take a second examination within 1 year without payment of any additional fees. ~~[Credit]~~ *Except as otherwise provided in section 1 of this act, credit* must be given on this examination for all subjects previously passed with a score of 75 percent or higher.

4. An applicant for a certificate as a chiropractor's assistant must pay the required fee to the Secretary of the Board before the application may be considered.

Sec. 21. *NRS 634A.050 is hereby amended to read as follows:*

634A.050 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 22. *NRS 635.020 is hereby amended to read as follows:*

635.020 1. The State Board of Podiatry, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) Three members who are licensed podiatric physicians in the State of Nevada.

(b) One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(c) One member who is a representative of the general public. This member must not be:

(1) A licensed podiatric physician in the State of Nevada; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed podiatric physician in the State of Nevada.

3. The members of the Board are entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. If a member is not licensed under the provisions of this chapter, the member shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 23. *NRS 636.075 is hereby amended to read as follows:*

636.075 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Compensation and expenses of the members and employees of the Board are payable out of the money derived from fees paid or transmitted to the Board pursuant to the provisions of this chapter and no part thereof may be paid out of the State Treasury.

~~[Sec. 9.]~~ *Sec. 24.* NRS 636.190 is hereby amended to read as follows:

636.190 ~~[A]~~ *Except as otherwise provided in section 1 of this act, a* grade of 75 or higher for each area tested on the examination is required to pass an examination.

Sec. 25. *NRS 637.045 is hereby amended to read as follows:*

637.045 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

~~[Sec. 10.]~~ *Sec. 26.* NRS 637.110 is hereby amended to read as follows:

637.110 1. An application for the issuance of a license as an apprentice dispensing optician must be accompanied by a fee of not more than $250 to cover the costs of the Board and the initial licensing.

2. An application for the issuance of a license as a dispensing optician must be accompanied by a fee of not more than $500 to cover the cost of the examination by the Board and the initial licensing.

3. The Board shall, if it approves an application for the issuance of a license as a dispensing optician, examine the applicant in ophthalmic dispensing, except that the Board may waive the examination of an applicant who is, at the time of application, licensed as a dispensing optician in another state.

4. ~~[To]~~ *Except as otherwise provided in section 1 of this act, to* pass the examination for the issuance of a license as a dispensing optician, an applicant must achieve a score of at least 70 percent.

Sec. 27. *NRS 637A.090 is hereby amended to read as follows:*

637A.090 1. Each member of the Board is entitled to receive a salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board.

2. All necessary expenses incurred by the Board in the performance of its duties must be evidenced on claims signed by the Chairman and Secretary and paid out of money received by the Board from fees.

3. While engaged in the business of the Board, each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 28. *NRS 637B.130 is hereby amended to read as follows:*

637B.130 1. A member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

~~[Sec. 11.]~~ *Sec. 29.* NRS 637B.170 is hereby amended to read as follows:

637B.170 1. Examinations for licensing must be given at least once a year at the time and place fixed by the Board.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. ~~[The]~~ *Except as otherwise provided in section 1 of this act, the* Board shall determine what constitutes a passing grade, except that in making that determination, the Board shall act fairly and impartially. ~~[If the Board elects to use a standard examination which is administered nationally, the Board may not establish a minimum passing grade which is higher than the national standard established for the examination.]~~

Sec. 30. *NRS 638.040 is hereby amended to read as follows:*

638.040 1. Members of the Board are entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Salaries and expenses may be paid only to the extent that sufficient money is received from licensees.

Sec. 31. *NRS 639.050 is hereby amended to read as follows:*

639.050 1. The Board shall hold a meeting at least once in every 6 months.

2. Four members of the Board constitute a quorum.

3. Meetings of the Board which are held to deliberate on the decision in an administrative action or to prepare, grade or administer examinations are closed to the public.

4. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

~~[Sec. 12.]~~ *Sec. 32.* NRS 639.120 is hereby amended to read as follows:

639.120 1. An applicant to become a registered pharmacist in this State must:

(a) Be of good moral character.

(b) Be a graduate of a college of pharmacy or department of pharmacy of a university accredited by the ~~[American Council on Pharmaceutical]~~ *Accreditation Council for Pharmacy* Education or Canadian Council for Accreditation of Pharmacy Programs and approved by the Board or a graduate of a foreign school who has passed an examination for foreign graduates approved by the Board to demonstrate that his education is equivalent.

(c) ~~[Pass]~~ *Except as otherwise provided in section 1 of this act:*

(1) Pass an examination approved and given by the Board with a grade of at least 75 on the examination as a whole and a grade of at least 75 on the examination on law. ~~[An]~~

(2) If he is an applicant for registration by reciprocity , ~~[must]~~ pass the examination on law with at least a grade of 75.

(d) Complete not less than 1,500 hours of practical pharmaceutical experience as an intern pharmacist under the direct and immediate supervision of a registered pharmacist.

2. The practical pharmaceutical experience required pursuant to paragraph (d) of subsection 1 must relate primarily to the selling of drugs, poisons and devices, the compounding and dispensing of prescriptions, preparing prescriptions and keeping records and preparing reports required by state and federal statutes.

3. The Board may accept evidence of compliance with the requirements set forth in paragraph (d) of subsection 1 from boards of pharmacy of other states in which the experience requirement is equivalent to the requirements in this State.

Sec. 33. *NRS 640.045 is hereby amended to read as follows:*

640.045 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 34. *NRS 640C.170 is hereby amended to read as follows:*

640C.170 Except as otherwise provided in NRS 640C.160, while engaged in the business of the Board:

1. Each member of the Board is entitled to receive a salary of not more than ~~[$80]~~ *$150* per day, as established by the Board; and

2. Each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for officers and employees of this State generally.

~~[Sec. 13.]~~ *Sec. 35.* NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. ~~[Prescribe]~~ *Except as otherwise provided in section 1 of this act, prescribe* the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; and

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant.

Sec. 36. *NRS 641.140 is hereby amended to read as follows:*

641.140 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Compensation and expenses of the members and employees of the Board are payable out of the money derived from fees paid or transmitted to the Board pursuant to the provisions of this chapter, and no part thereof may be paid out of the State Treasury.

Sec. 37. *NRS 641A.200 is hereby amended to read as follows:*

641A.200 1. A member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Compensation and expenses of the members and employees of the Board are payable out of the money derived from fees and penalties paid or transmitted to the Board pursuant to the provisions of this chapter, and no part thereof may be paid out of the State Treasury.

~~[Sec. 14.]~~ *Sec. 38.* NRS 641A.230 is hereby amended to read as follows:

641A.230 1. Except as otherwise provided in subsection 2, each qualified applicant for a license must be given a written examination by the Board on his knowledge of marriage and family therapy. Examinations must be given at a time and place and under such supervision as the Board may determine. ~~[A]~~ *Except as otherwise provided in section 1 of this act, a* grade of 70 percent is a passing grade.

2. The Board shall accept receipt of a passing grade by a qualified applicant on the national examination sponsored by the American Association for Marriage and Family Therapy in lieu of requiring a written examination pursuant to subsection 1.

3. In addition to the requirements of subsections 1 and 2, the Board may require an oral examination. The Board may examine in whatever applied or theoretical fields it deems appropriate.

Sec. 39. *NRS 641B.140 is hereby amended to read as follows:*

641B.140 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

~~[Sec. 15.]~~ *Sec. 40.* ~~[NRS 641B.270 is hereby amended to read as follows:~~

~~641B.270 1. The Board [may] *shall* grant a license without *the* examination *otherwise required pursuant to this chapter* to a person who holds a current license to engage in the practice of social work [in a state whose licensing requirements at the time the license was issued are deemed by the Board to be substantially equivalent to the requirements set forth in this chapter.] *issued pursuant to the laws of another state or territory of the United States, or the District of Columbia, and who satisfies the applicable requirements of this section.*~~

~~*2. The Board shall issue a license pursuant to this section to an applicant seeking licensure as a social worker who:*~~

~~*(a) Possesses the preliminary qualifications set forth in NRS 641B.200;*~~

~~*(b) Complies with the requirements of NRS 641B.202;*~~

~~*(c) Has not had his license to engage in the practice of social work revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(d) Has not been refused a license to engage in the practice of social work in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(e) Is not involved in or does not have pending a disciplinary action concerning his license to engage in the practice of social work in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(f) Has passed an examination prescribed by the licensing authority that issued his license;*~~

~~*(g) Has complied with all requirements for continuing education prescribed by the licensing authority that issued his license;*~~

~~*(h) Except as otherwise provided in section 1 of this act, scores 75 percent or higher on an examination prescribed by the Board concerning the provisions of this chapter and the regulations of the Board;*~~

~~*(i) Has engaged in the practice of social work pursuant to the laws of another state or territory of the United States, or the District of Columbia, for an average of not less than 30 hours per week during the immediately preceding 5 years; and*~~

~~*(j) Possesses a baccalaureate degree or master's degree in social work from a college or university accredited by the Council on Social Work Education.*~~

~~*3. The Board shall issue a license pursuant to this section to an applicant seeking licensure as an independent social worker who:*~~

~~*(a) Possesses the preliminary qualifications set forth in NRS 641B.200;*~~

~~*(b) Complies with the requirements of NRS 641B.202;*~~

~~*(c) Has not had his license to engage in the practice of social work revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(d) Has not been refused a license to engage in the practice of social work in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(e) Is not involved in or does not have pending a disciplinary action concerning his license to engage in the practice of social work in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(f) Has passed an examination prescribed by the licensing authority that issued his license;*~~

~~*(g) Has complied with all requirements for continuing education prescribed by the licensing authority that issued his license;*~~

~~*(h) Except as otherwise provided in section 1 of this act, scores 75 percent or higher on an examination prescribed by the Board concerning the provisions of this chapter and the regulations of the Board;*~~

~~*(i) Has completed not less than 3,000 hours of supervised, postgraduate social work approved by the licensing authority that issued his license; and*~~

~~*(j) Possesses a master's degree or a doctoral degree in social work from a college or university accredited by the Council on Social Work Education.*~~

~~*4. The Board shall issue a license pursuant to this section to an applicant seeking licensure as a clinical social worker who:*~~

~~*(a) Possesses the preliminary qualifications set forth in NRS 641B.200;*~~

~~*(b) Complies with the requirements of NRS 641B.202;*~~

~~*(c) Has not had his license to engage in the practice of social work revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(d) Has not been refused a license to engage in the practice of social work in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(e) Is not involved in or does not have pending a disciplinary action concerning his license to engage in the practice of social work in this State, another state or territory of the United States, or the District of Columbia;*~~

~~*(f) Has passed an examination prescribed by the licensing authority that issued his license;*~~

~~*(g) Has complied with all requirements for continuing education prescribed by the licensing authority that issued his license;*~~

~~*(h) Except as otherwise provided in section 1 of this act, scores 75 percent or higher on an examination prescribed by the Board concerning the provisions of this chapter and the regulations of the Board;*~~

~~*(i) Has completed not less than 3,000 hours of supervised, postgraduate clinical social work approved by the licensing authority that issued his license; and*~~

~~*(j) Possesses a master's degree or a doctoral degree in social work from a college or university accredited by the Council on Social Work Education.]*~~ *(Deleted by amendment.)*

Sec. 41. *NRS 641C.170 is hereby amended to read as follows:*

641C.170 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for officers and employees of this State generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for officers and employees of this State generally.

Sec. 42. *NRS 642.030 is hereby amended to read as follows:*

642.030 1. Before entering upon their duties the members of the Board shall respectively take and subscribe to the oath required of other state officers. The Secretary of State is authorized to administer the oath, and each oath must be filed in his office.

2. The members of the Board are entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 43. *NRS 643.030 is hereby amended to read as follows:*

643.030 1. The Board shall elect a President. No person may serve as President for more than 4 consecutive years.

2. The Board shall elect a Vice President.

3. The Board shall elect a Secretary-Treasurer, who may or may not be a member of the Board. The Board shall fix the salary of the Secretary-Treasurer, which must not exceed the sum of $3,600 per year.

4. Each officer and member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

6. The Secretary-Treasurer shall:

(a) Keep a record of all proceedings of the Board.

(b) Give to this State a bond in the sum of $3,000, with sufficient sureties, for the faithful performance of his duties. The bond must be approved by the Board.

Sec. 44. *NRS 644.070 is hereby amended to read as follows:*

644.070 1. The Board shall hold meetings at least four times a year for the examination of applicants for registration and for the transaction of such other business as pertains to its duties.

2. The Board may hold such other meetings for the examination of applicants for registration or for the transaction of necessary business at such times and places as it determines.

3. The members of the Board are entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. All such compensation and expenses must be paid by the Board out of the fees and receipts received by it, and no part thereof may be paid by the State.

~~[Sec. 16.]~~ *Sec. 45.* NRS 644.206 is hereby amended to read as follows:

644.206 The Board shall admit to examination for a license as a demonstrator of cosmetics any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. Has completed a course provided by the Board relating to sanitation; and

4. ~~[Has]~~ *Except as otherwise provided in section 1 of this act, has* received a score of not less than 75 percent on the examination administered by the Board.

~~[Sec. 17.]~~ *Sec. 46.* NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, manicurist, demonstrator of cosmetics and instructor expires *:*

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on ~~[July 1 of]~~ *the date of birth of the licensee in* the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses issued for less than 1 1/2 years.

~~[Sec. 18.]~~ *Sec. 47.* NRS 644.350 is hereby amended to read as follows:

644.350 1. The license of every cosmetological establishment expires *:*

(a) If the last name of the owner begins with the letter "A" through the letter "M," on ~~[July 1 of]~~ *the date of birth of the owner in* the next succeeding odd-numbered year.

(b) If the last name of the owner begins with the letter "N" through the letter "Z," on the date of birth of the owner in the next succeeding even-numbered year.

2. *If a cosmetological establishment has more than one owner, the Board shall designate one of the owners whose last name will be used for the purpose of determining the date of expiration of the license of the cosmetological establishment.*

3. If a cosmetological establishment fails to pay the required fee ~~[by October 1 of the year in which renewal of the license is required,]~~ *for renewal of its license within 90 days after the date of expiration of the license*, the establishment must be immediately closed.

Sec. 48. *NRS 645.140 is hereby amended to read as follows:*

645.140 1. Except as otherwise provided in this section, all fees, penalties and charges received by the Division pursuant to NRS 645.410, 645.660 and 645.830 must be deposited with the State Treasurer for credit to the State General Fund. The fees received by the Division:

(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.

(b) For examinations, must be retained by the Division to pay the costs of the administration of examinations.

➥ Any surplus of the fees retained by the Division must be deposited with the State Treasurer for credit to the State General Fund.

2. Money for the support of the Division must be provided by direct legislative appropriation, and be paid out on claims as other claims against the State are paid.

3. Each member of the Commission is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Commission, while engaged in the business of the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission, while engaged in the business of the Commission. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Commission, each employee of the Commission is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 49. *NRS 645C.200 is hereby amended to read as follows:*

645C.200 1. The Commission shall:

(a) Operate on the basis of a fiscal year beginning on July 1 and ending on June 30.

(b) At the first meeting of each fiscal year, elect a President, Vice President and Secretary to serve for the ensuing year.

(c) Hold at least two meetings each year, one in the southern part of the State and one in the northern part of the State, at times and places designated by the Commission. When there is sufficient business, additional meetings of the Commission may be held at the call of the President of the Commission. Written notice of the time, place and purpose of each meeting must be given to each member at least 3 working days before the meeting.

2. While engaged in the business of the Commission, each member of the Commission is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 50. *NRS 648.020 is hereby amended to read as follows:*

648.020 1. The Private Investigator's Licensing Board, consisting of the Attorney General or his deputy and four members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) One member who is a private investigator.

(b) One member who is a private patrolman.

(c) One member who is a polygraphic examiner.

(d) One member who is a representative of the general public. This member must not be:

(1) A licensee; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensee.

3. The Chairman of the Board is the Attorney General or a deputy attorney general designated by the Attorney General to act in that capacity.

4. Each member of the Board, except the Chairman, is entitled to receive:

(a) A salary of not more than ~~[$80,]~~ *$150,* as fixed by the Board, for each day or portion of a day during which he attends a meeting of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

6. The member who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 51. *NRS 656.070 is hereby amended to read as follows:*

656.070 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[$80]~~ *$150* per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. The expenses of the members and employees of the Board and the expenses of the Board must be paid from the fees collected pursuant to the provisions of this chapter and the expenses must not exceed the amount so collected.

~~[Sec. 19.]~~ *Sec. 52.* NRS 353.333 is hereby amended to read as follows:

353.333 1. On or before January 1 of each year, the Governor shall compile a report on the status of the finances of the State including the information published in:

(a) The most recent executive budget report prepared pursuant to the provisions of NRS 353.185;

(b) The most recent report prepared by the State Controller pursuant to the provisions of NRS 227.110;

(c) The most recent report on the count of state money prepared pursuant to the provisions of NRS 353.075;

(d) The most recent report on the transactions and proceedings of the Department of Taxation prepared pursuant to the provisions of NRS 360.100;

(e) ~~[The most recent report prepared by each regulatory agency pursuant to the provisions of NRS 622.110;~~

~~(f)]~~ The most recent report prepared by each school district pursuant to the provisions of NRS 387.303;

~~[(g)]~~ *(f)* The most recent report prepared and submitted by each local government pursuant to the provisions of NRS 360.220; and

~~[(h)]~~ *(g)* Any other report prepared by the State, or a county, city, town or school district, or any public agency of this State or its political subdivisions that the Governor deems to be relevant to the status of finances of the State.

2. The report required pursuant to subsection 1 must be:

(a) Titled the "Nevada Report to Taxpayers";

(b) Written in plain English; and

(c) Contain such information as the Governor deems appropriate to provide a full and accurate description on the status of the finances of the State, including, without limitation:

(1) The total amount of revenue collected by the State or an agency of the State during the preceding fiscal year;

(2) The actual total of all expenses and expenditures by the State or an agency of the State during the preceding fiscal year;

(3) A comparison of the total amount appropriated or authorized for expenditure by the State during the preceding fiscal year and the actual total of all expenses and expenditures by the State during the preceding fiscal year;

(4) The total amount of outstanding public debt of the State at the end of the preceding fiscal year;

(5) The total cost to pay the public debt of the State during the preceding fiscal year; and

(6) Such information on the revenue, expenditures and public debt of the State, or a county, city, town or school district, or any public agency of this State or its political subdivisions as the Governor deems necessary to provide a full and accurate description on the status of the finances of the State.

3. The Governor shall make the report required pursuant to subsection 1 available for access by the public on the Internet or its successor, if any.

~~[Sec. 20.]~~ *Sec. 53.* NRS 622.110 is hereby repealed.

Sec. 54. 1. The Legislative Committee on Health Care shall appoint a subcommittee to review the regulation of providers of health care in Nevada. The subcommittee must consist of:

(a) Two members of the Legislative Committee on Health Care appointed by the Chairman of that Committee;

(b) The Chairman of the Senate Standing Committee on Human Resources and Education;

(c) A member of the Senate Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee;

(d) The Chairman of the Assembly Standing Committee on Health and Human Services; and

(e) A member of the Assembly Standing Committee on Commerce and Labor during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee.

2. The Chairman of the Legislative Committee on Health Care shall designate a member of the subcommittee to serve as chairman.

3. The subcommittee shall:

(a) Conduct:

(1) A review of the laws of this State relating to the scope of practice authorized for providers of health care.

(2) A study concerning the operation of the professional licensing boards for providers of health care with respect to barriers to licensing.

(b) Not later than June 30, 2008, submit a report of the results of its review and study and any recommendations for legislation to the Legislative Committee on Health Care.

4. The subcommittee may contract with such experts, researchers and consultants as may be necessary for the subcommittee to carry out its duties.

~~[Sec. 21.]~~ *Sec. 55. 1.* This act becomes effective upon passage and approval.

2. Section 54 of this act expires by limitation on June 30, 2008.

TEXT OF REPEALED SECTION

622.110 Reports of regulatory activities; contents of reports; duties of Director of Legislative Counsel Bureau.

1. Each regulatory body shall, on or before November 1 of each even-numbered year, submit a report of its activities to the Director of the Legislative Counsel Bureau.

2. The report must include, without limitation:

(a) The number of licenses issued by the regulatory body during the immediately preceding 2 fiscal years;

(b) A summary of the budget of the regulatory body during the immediately preceding 2 fiscal years that is related to the duties of the regulatory body pursuant to this title, including, without limitation, a description of all income and expenditures related to such duties;

(c) A summary of each disciplinary action taken by the regulatory body during the immediately preceding 2 fiscal years against any licensee of the regulatory body; and

(d) Any other information that is requested by the Director of the Legislative Counsel Bureau or which the regulatory body determines would be helpful to the Legislature in evaluating whether the continued existence of the regulatory body is necessary.

3. The Director of the Legislative Counsel Bureau shall compile all the reports he receives and distribute copies of the compilation to the Senate Standing Committee on Commerce and Labor and the Assembly Standing Committee on Commerce and Labor, which each shall review the compilation to determine whether the continued existence of each regulatory body is necessary.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 425.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 487.

"SUMMARY—Makes various changes relating to campaign practices. (BDR 24-905)"

"AN ACT relating to campaign practices; ~~[prohibiting certain officers of certain political subdivisions from soliciting or accepting contributions during certain periods; providing certain exceptions;]~~ providing that a "political purpose" includes a legal defense fund; ~~[making various other changes to provisions relating to campaign practices; providing a civil penalty;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this bill prohibits an elected officer of a political subdivision of this State, or a person appointed to fill the unexpired term of such an officer, from soliciting or accepting monetary contributions from any person for a political purpose during the period: (1) beginning 30 days before the person files an application or request that requires any official action by the elected officer; and (2) ending 30 days after the date on which the elected officer or governing body of the political subdivision takes final action on the application or request. Section 1 also provides a "safe harbor" provision for an officer who accepts a contribution during the specified period but returns the contribution within a certain time after learning that an application or request will be or has been filed and provides that a "political purpose" includes a legal defense fund.]~~

Existing law prohibits a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect from soliciting or accepting monetary contributions for any political purpose during a certain period before and after a legislative session. Section 2 of this bill provides that a "political purpose" includes a legal defense fund ~~[.]~~ *and defines the term "legal defense fund."*

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

Section 1. ~~[Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsections 2 and 3, it is unlawful for an elected officer of a political subdivision of the State of Nevada to solicit or accept any monetary contribution from any person, or solicit or accept a*~~

~~*commitment from a person to make such a contribution for any political purpose during the period:*~~

~~*(a) Beginning 30 days before the date on which the person files any application or request that requires any official action by the elected officer or governing body of the political subdivision; and*~~

~~*(b) Ending 30 days after the date on which the elected officer or governing body of the political subdivision takes final action on the application or request.*~~

~~*2. If an elected officer:*~~

~~*(a) Does not know that a person intends to file an application or request that will require official action by the elected officer or governing body of the political subdivision;*~~

~~*(b) Accepts a monetary contribution from the person; and*~~

~~*(c) Returns the monetary contribution in full within 5 business days after learning that the person intends to file such an application or request, or within 5 business days after the application or request is filed, whichever is earlier,*~~

~~*" the acceptance of such a monetary contribution is not a violation of this section.*~~

~~*3. This section does not prohibit the payment of a salary or other compensation or income to an elected officer during the period described in subsection 1 if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.*~~

~~*4. As used in this section:*~~

~~*(a) "Elected officer" means any person who has been elected to an office of a political subdivision or appointed to fill such an office for the remainder of the unexpired term.*~~

~~*(b) "Political purpose" includes, without limitation, the establishment of, or the addition of money to, a legal defense fund.*~~

~~*(c) "Political subdivision" includes, without limitation, a city council, board of county commissioners, regional water authority, redevelopment agency, regional transportation commission and zoning board. The term does not include a fire protection district, irrigation district, school district, local or general improvement district or soil conservation district.]*~~ *(Deleted by amendment.)*

Sec. 2. NRS 294A.300 is hereby amended to read as follows:

294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose during the period beginning:

(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;

(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special

session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or

(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.

2. This section does not prohibit the payment of a salary or other compensation or income to a member of the Legislature, the Lieutenant Governor or the Governor during a session of the Legislature if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.

3. As used in this section ~~*[, "political]*~~ *:*

(a) "Legal defense fund" means an account established to defray attorney's fees or other legal costs incurred by a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect if such an official becomes subject to any civil, criminal or administrative proceedings arising from a campaign, the electoral process or the performance of his official duties.

(b) "Political purpose" includes, without limitation, the establishment of, or the addition of money to, a legal defense fund.

Sec. 3. ~~[NRS 294A.420 is hereby amended to read as follows:~~

~~294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.~~

~~2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 or *section 1 of this act* is subject to a civil penalty of not more than $5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.~~

~~3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:~~

~~(a) If the report is not more than 7 days late, $25 for each day the report is late.~~

~~(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.~~

~~(c) If the report is more than 15 days late, $100 for each day the report is late.~~

~~→ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.~~

~~4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:~~

~~(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and~~

~~(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.]~~ *(Deleted by amendment.)*

Sec. 4. This act becomes effective upon passage and approval.

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 18.

Bill read second time and ordered to third reading.

Assembly Bill No. 30.

Bill read second time and ordered to third reading.

Assembly Bill No. 75.

Bill read second time and ordered to third reading.

Assembly Bill No. 152.

Bill read second time and ordered to third reading.

Assembly Bill No. 294.

Bill read second time and ordered to third reading.

Assembly Bill No. 482.

Bill read second time and ordered to third reading.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 235, 473, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Mr. President pro Tempore:

Your Committee on Finance, to which was referred Senate Bill No. 125, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

Mr. President pro Tempore:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 92, 157, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Resolutions Nos. 6, 7.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Carlton, the privilege of the floor of the Senate Chamber for this day was extended to Grace Foley.

On request of Senator Care, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperones and teachers from the St. Viator School: Alejandra Sierra, Alexis Pollnow, Allyson Williams, Andy Pasbakhsh, Aspen Minden, Astrud Benson, Billy Lovelace, Bradley Hahnfeld, Brian Salame, Bridget Cirone, Caleigh Morris, Chelsea Gamboa, Christian Wilhelm, Connor Burns, Courtney McGowan, Dalton Clark, Danielle Fayad, Elizabeth Charles, Erica Silvestri, Erin Lousigmont, Erin Morse, Henock Sileshi, Jacob Snyder, Jake Wasserkrug, James Bishop, James Spatafore, John Cadena, Joseph Manfedi, Joshua Herrick, Joy Saddi, Justin Holinski, Kaitlin Andrewjeski, Katelyn Barnett, Kimberly Briones, Kristofer Castillo, Kyle Nowins, Laney Tinnell, Lauren Healy, Lauren Oldfield, Mallika Pal, Mary Mazzara, Mary Carothers, Matthew Ho, Michael Puggi, Michaele Sullivan, Nicholas Dion, Nicholas Pfeiffer, Nicole Derosier, Noah Delacalzada, Ogechi Amadi, Rachel Godby, Ratouille Pruna, Rizhon King, Ruth Larmore, Scott Brenske, Sean McGahey, Stephanie Scoglione, Stephen Joseph, Tasha Joseph, Taylor Erling, Theresa Daly, Tiffany Diersen, Tina Williams, William Hall, William Williams; teachers and chaperones: Anne Marie Fayad, Belinda Morse, Beth Puggi, Debra Barnett, Elise Carothers, Luke Desjarlais, Nina Queen, Pam Charles, Cynthia Parmentier, Terri Hanlon, Veronica Pruna, Gertie Burns, Harald Vogel and Daniel Cox.

On request of Senator Townsend, the privilege of the floor of the Senate Chamber for this day was extended to the following students and teachers from Double Diamond Elementary School: Connor Allison, Jessica Anderson, Bianca Blueian, Victor Brown, Guinivere Clark, Danielle Crowley, Chanelle Curd, McKenna Fortier, Sarah Hewitt, Thomas Hibbard, Trey Kaul, Joshua Lawson, Michael McBride, Sonya McBride, Keaton McCullough, Nancy Parr, Gari Peterson, Logan Pingel, Sarah Rader, Zachary

Robertson, Charles Self, Jaida Sproed, Kaylee Summerville, Peyton Trujillo, Holly Velasco, Jacob Weiss, Chandler Williams, James Wilson, Jazmine Wright, Angelo Gabriel Zuniga, Derrick Ackroyd, Tayla Anderson, Meghan Barna, Stephon Bazemore, Konor Boland, Alyssa Carreon, Anthony Chartier, Mitchell Claussen, Devin Eckner, Jacob Hadden, Jordan Hadden, Monterio Hall, Thomas Hayward, Johana Kawelmacher, David Kennedy, Rayce Malmed, Charles Mancera, Darius Maxie, Michael Maynes, Brianna Memro, Rachel Munson, Jack Ray, Amber Seifert, Zachary Smirlock, Luren Stegman, Kristofer Street, Kristian Trinidad, Kari Van Der Wal, Edronio Walter, Landon Wickham; teachers: Mrs. Henjum and Mrs. Luna.

Senator Raggio moved that the Senate adjourn until Monday, April 23, 2007, at 10 a.m.

Motion carried.

Senate adjourned at 4:45 p.m.

Approved: MARK E. AMODEI
President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate